Edward Porritt

# EVOLUTION OF THE DOMINION OF CANADA

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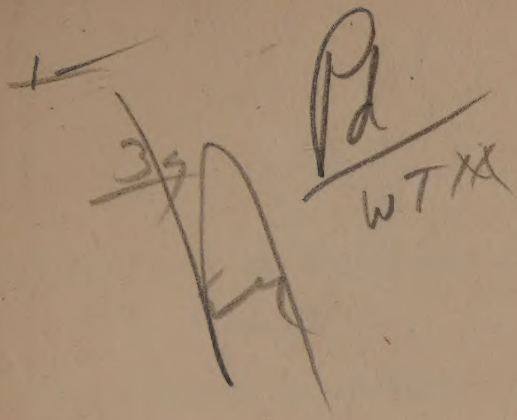

Alice R Stewart

# Evolution of the Dominion of Canada

## Its Government and Its Politics

GOVERNMENT HANDBOOKS is a new series of college textbooks in government prepared under the joint editorship of David Prescott Barrows, Ph.D., Professor of Political Science (on leave) and formerly Dean of the Faculties in the University of California, now Colonel in the United States Army, and Thomas Harrison Reed, A.B., LL.B., Associate Professor of Government in the University of California and City Manager of San Jose, California.

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DOMINION OF CANADA
Scale of miles
100 0 200 400 600
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ATLANTIC OCEAN
GREENLAND (Danish)
BAFFIN BAY
BAFFIN ISLAND
Davis Strait
Hudson Strait
HUDSON BAY
VICTORIA ISLAND
Banks I.
North Devon
Prince of Wales I.
North Somerset
Boothia Pen.
Southampton I.
Great Slave Lake
Great Bear Lake
Mackenzie River
Yukon R.
Dawson
Whitehorse
Liard
Peace River
Athabaska
Athabaska R.
Churchill R.
Nelson R.
Port Nelson
Lake Winnipeg
Severn R.
Albany R.
James Bay
East Main R.
Hamilton R.
Edmonton
North Battleford
Prince Albert
Red Deer
Calgary
Saskatoon
Lake Chicago
Yorkton
Regina
Moosejaw
Medicine Hat
Brandon
Portage la Prairie
WINNIPEG
Port Arthur
Ft. William
Lake Superior
Lake Michigan
Lake Huron
Lake Erie
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Edited by David P. Barrows and Thomas H. Reed
Government Handbooks

# Evolution of the Dominion of Canada

## Its Government and Its Politics

BY
EDWARD PORRITT
AUTHOR OF "THE ENGLISHMAN AT HOME," "THE UNREFORMED HOUSE OF COMMONS," AND "SIXTY YEARS OF PROTECTION IN CANADA".

YONKERS-ON-HUDSON : : : NEW YORK
WORLD BOOK COMPANY
1918

Our teaching of politics in the universities, excellent upon the side of theory, needs to be supplemented by practical teaching. . . . A political theory, detached from the actual conditions of life, is as worthless as the political economy of a few decades ago which first assumed a competitive market which never existed, and then formulated the laws which would presumably operate in it if it did exist. Dream politics have been taught too long. What American students need today is a training which will fit them to deal with actual conditions, and to be real vital factors in making them better.

Dr. Robert M. McElroy, President Wilson's successor as head of the Department of History and Politics at Princeton University, at conference of educators, rooms of Bar Association, New York, October 14, 1917.

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GH: PEDC-I

# EDITORS' INTRODUCTION

DESPITE *the increased study given in America to modern government, small attention has been paid either by college teachers or the general public to the political institutions of the two nations which are the immediate neighbors of the United States, and whose territory defines our own national boundaries on both the north and the south. And yet our relations with these two countries occupy a very large place in our political history and continue to be among the most vital concerns of our nation. In no other part of the world is it so important to us to have a thorough accord as on the continent of North America, and no real understanding is possible in the absence of a full knowledge of the character and spirit of the public life of neighboring states.*

*In both cases these neighboring countries have been deeply influenced by our political constitution and from us both have adopted the federal form of government, and many of the common American terms and conceptions of republican society. As far as the Mexican republic is concerned the problem of our relations is admittedly a serious and difficult one, made*

*more so by the lack of knowledge arising from profound differences in race, speech, and inheritance. But in the case of Canada a common derivation, a common speech, a common literature, and institutions derived from common sources, somewhat differently developed, have already gone far to produce in both countries a common American type of society and social philosophy. While Canada has learned much from the experience of the United States, she is prepared also to teach much. In the last fifty years Americans have exhibited slight originality in politics but have gained a spirit to profit from the experience of others. While in our state development, which has added commonwealth after commonwealth to the American Union, our constitution drafters and lawmakers have adhered conservatively to a fixed type of political organization, Canada can show a successful experience with single-chamber legislatures and with centralized administrations — types of progressive organizations which American state political leaders have lacked the courage and vision to attempt. The administration of justice, of cities, and of local institutions in Canada shows a clear superiority over their counterparts in the United States, which should arouse grave inquiry in the minds of a people no less fortunately situated nor less socially endowed*

*than the Canadians. Assuredly a large part of American failure in government is attributable to a vicious form of organization which Canada, influenced by sounder conceptions, has avoided.*

*But undoubtedly the most fruitful contrast between government in Canada and government in the United States is the different organization of the executive power. To the presidential type of executive, elected for a fixed term and above any political control during the period of office, which prevails in the United States of Mexico, Canada opposes the parliamentary or responsible executive derived from England and adopted generally by representative governments in Europe. It is by no means certain which of these two strongly contrasted institutions will eventually be preferred by a successful republicanism in the Western Hemisphere. All the countries of America except those which are members of the British Empire have followed the example of the United States and created presidential executives; but with the exception of the United States none has wholly escaped dictatorship or avoided civil wars occasioned by the abuse of presidential power. The late President Madero, at the time when he was a candidate for the office, informed one of the editors of this series that he was convinced that constitutional order in Mexico would never be possible unless*

*the Mexican presidency was changed to the form of the presidency of France. A constitutional amendment to effect this change was introduced into the Mexican congress in 1911, after Madero's election.*

*Certainly in one respect parliamentary government is most impressive, and that is in its capacity promptly to determine the popular will upon a vital issue. An American presidential election seldom effects this. The issue may have already passed into the background before the vote can be taken, and the large number of controversies pressed upon the American electorate at the end of each four years confuse the main issue and render the decision so doubtful that it is rarely found binding upon the administration elected to power.*

*Contrast such delayed and dubious decision with the dissolution of the Canadian parliament over the reciprocity issue in 1911, or the election of 1917 upon the issue of conscription for the war. In each case the controversy was isolated and unconfused, a decision was given by the nation unmistakably and within the space of a few weeks' time, and government was immediately reorganized in terms of that decision and with the designated victors in this contest to carry out the people's will. Such a parliamentary election is a great referendum beside which an American election is a halting and uncertain decision.*

*It would be impertinent to enlarge upon the qualities of the eminent writer who has prepared this volume on the* Evolution of the Dominion of Canada: Its Government and Its Politics. *Mr. Porritt's long researches and authoritative writings in the field of representative government, his broad and decided views upon the economic policies of governments, his long identification with liberal movements in the United States as well as in Great Britain and Canada, make his willingness to perform this task a cause of congratulation. No one is better qualified than he to speak for the American people both in Canada and in the United States.*

THE EDITORS

# PREFACE

MORE than once I have been asked why I, an Englishman, long resident in the state of Connecticut, take so much pleasure in writing on Canada. The answer to this question is easy to make. From 1896 to 1914, my work, as a special correspondent of London, Leeds, and Glasgow newspapers, took me as much afield in the Dominion of Canada as in the United States, as frequently to Ottawa as to Washington. Canada has also a peculiar interest for me arising out of long devotion to a particular line of study. From days of boyhood, when I was serving my apprenticeship to newspaper work in England, the study of the history and working of British political institutions, local, central, and imperial, has been one of the joys of my life.

In Canada, British political institutions have been in working since 1758 — working under New World conditions. As transplanted in the eighteenth century they were as nearly as possible replicas of English political institutions — as much so as the institutions, parliamentary, administrative, and judicial, that were established by England in Ireland at the end of the fifteenth century.

In the first half of the nineteenth century there were far-reaching reforms in Great Britain. The system of parliamentary representation was

modernized and made much more democratic than it had been for three centuries before 1832; and within the decade in which this long overdue reform was effected, the attitude of Great Britain towards her oversea possessions also underwent a great and beneficent change.

Responsible government was conceded to the colonies in which representative government had already been established; and with the concession of responsible government the political institutions of Canada went through much the same process as the political institutions of the United Kingdom, local and central, had done in the eighty-two years from 1832 to the beginning of the war.

In no province in Canada is the political civilization much more than a century and a half old. But I have found the study of it as fascinating as that of the much older political civilizations of England, Scotland, and Ireland. It has presented much the same four aspects: (1) how the older political institutions came to be; (2) how they worked; (3) the forces that impelled their reform and liberalization; (4) how the newer and more democratic political institutions have worked.

More ground has been covered in the following pages than is usual in books concerned with government and politics. More ground had to be covered if the government and contemporary politics of the Dominion of Canada were to be visualized and comprehended. For conditions

in Canada are peculiar, and peculiar in at least four respects.

These are (1) the conditions under which the political development of Canada has proceeded since 1763; (2) the relations of Canada with Great Britain and the empire; (3) the enormous influence which Canada, and in particular the united provinces of Upper and Lower Canada — 1840–1867 — have had on the colonial policy of Great Britain since 1840; and (4) the position of Canada arising from the former political connection of three of the old British North American provinces with the thirteen colonies that broke away in 1776–1783 from Great Britain and established themselves as the United States; the proximity of Canada to the United States; and the influence that the United States has had on the political and economic development of Canada, and on its relations, political and economic, with Great Britain and the vast empire of which Great Britain is the center.

It is to make Canada understandable, and also to make clear its relations with Great Britain, and also the potency of American influence upon it, that so much attention has been devoted in these pages to the evolution of the Dominion, and to the National Policy, which, largely owing to American example and influence, had its origin as far back as 1858.

Dominion politics from 1867 to the war cannot be understood without an adequate comprehen-

sion of the conditions, political, racial, religious, economic, and social, within Canada, and also of some important conditions of external origin that brought about Confederation, and the gradual development of the Dominion to its present-day status of nation. There is also needed some comprehension of the history of the National Policy, and its various developments, and its influence on Canadian politics and on the day-by-day life of the people of the Dominion, as well as on the relations of the Dominion with Great Britain and the other dominions, and with the United States.

To some degree this preface is characterized by a personal note. I will end it in the same key by adding that my interest in the history and working of British political institutions has been stimulated by the privileges I have enjoyed since 1894 at the Connecticut State Library, where the collection of material for the study of Canadian history and politics is remarkably large and complete. In this respect the State Library here is excelled, so far as I can recall, by only three libraries in England, and all these three libraries are in London.

EDWARD PORRITT

HARTFORD, CONNECTICUT, U. S. A.
*May* 24, 1918.

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# Evolution of the Dominion of Canada: Its Government and Its Politics

## CHAPTER I

### THE BRITISH OVERSEA DOMINIONS

Extent of the British Empire

THE oversea possessions of Great Britain, other than the Indian Empire — possessions which in the year before the great war of 1914–1918 were of the aggregate area of nearly nine and a half million square miles — have been grouped at the colonial office in London, since 1907, in two divisions. The grouping is by political status. It is determined by the relations of parliament at Westminster and the colonial office to each of the forty-eight oversea possessions.

Political grouping of oversea possessions

In one group are the dominions, which call for little or no attention from parliament, and, as regards their internal concerns, throw no burdens on the colonial office. In the other group are the crown colonies and protectorates. These receive some attention from parliament, in particular when the annual vote for the colonial office is before the house of commons and the house of lords, — a vote on which any aspect of

crown colony government can be discussed, — and the internal and external concerns of these colonies are constantly under the supervision of the colonial office.

Area and population of crown colonies

The dependencies under the supervision of the colonial office cover on the roughest of estimates an area of two million square miles. They have a population of over forty millions, among whom — including immigrants as well as children of the soil — are to be found, in the words of the Book of Daniel, "all people, nations, and languages that dwell in all the earth." [1]

Dominions

The dominions are (1) the Dominion of Canada; (2) the Commonwealth of Australia; (3) the Dominion of New Zealand; (4) the Union of South Africa; and (5) the Dominion of Newfoundland. In all these British oversea possessions there are parliaments or legislatures elected on democratic franchises, and responsible governments.

Responsible government

The term "responsible government" is a comparatively new one in British colonial history. It was not of British political terminology — certainly not accepted in England as applicable to colonial governments — until Great Britain in the period between 1837 and 1850 at last began to learn the lesson of the American revolution, and to concede large powers of self-government to the British North American provinces; next

[1] Cf. C. P. Lucas, "The Crown Colonies and Protectorates," Manchester *Guardian*, March 20, 1917.

to Australia, New Zealand, and Cape Colony; and finally in 1893 to Natal.

Meaning of responsible government

The term "responsible government," as now used in British political science, means that in each dominion there is a parliament and an executive, called the ministry, which, like the ministry in Downing Street for the last two centuries, is dependent for its tenure on the continuous support of a majority in the house of commons. In the oversea dominions, as in the United Kingdom, the executive is often described as the cabinet. The correct term is the ministry; for it frequently happens, especially at Westminster, that there are men in the ministry who are not of the inner committee of the privy council which is termed the cabinet.

Area and population of the dominions

The aggregate area of the five dominions in 1914 was in round figures seven and a half million square miles. The aggregate white population was nearly fifteen millions, as compared with forty-six millions in the United Kingdom. Western Australia, a state in the Commonwealth of Australia, and Natal, a province in the Union of South Africa, were the last colonies, now of the dominions, to receive responsible government.

Political freedom in the dominions

Western Australia was a crown colony until 1890. Natal was in the same class until 1893. With these exceptions, electors in all the dominions, for at least half a century before the world upheaval of 1914, had been as free to govern themselves in all internal or domestic concerns,

and in more recent years also in regard to some external matters, such as tariff preferences and trade conventions, as the parliamentary electors of the United Kingdom.

**Protective tariffs**

There were no preferences for the oversea dominions in the tariffs of the United Kingdom after 1846. From 1859, when the united provinces of Quebec and Ontario established a protective tariff, each colony or province that is now of the dominions was free to frame its own tariff without regard to the industrial or commercial interests of the United Kingdom.

**Protection against imports from the United Kingdom**

With the exception of Newfoundland, all the dominions in the period between 1859 and 1914 had availed themselves of this liberty to impose protective duties on imports from the United Kingdom and from other parts of the British Empire. It was not until 1897, when the Dominion of Canada made the innovation, that there were any preferences in the tariffs of the dominions for imports from England, Scotland, and Ireland.

**Dominions and imperial expenditures**

Except for contributions towards the British navy from Australia, New Zealand, South Africa, and Newfoundland, none of which was made earlier than 1887, and some contribution for several years from the Union of South Africa towards the expense of maintaining British troops in that dominion, no dominion makes, or ever has made, any contribution to the imperial exchequer.

No contributions to the British national debt

In the year before the war, the British national debt was seven hundred and sixteen millions sterling. A very large part of the national debt that accumulated in the eighteenth century was incurred in defending and extending British colonial possessions in North America. Some of the debt of the nineteenth and twentieth centuries was also incurred in wars which arose directly out of Great Britain's oversea possessions. But no dominion has ever paid a contribution to the interest or sinking fund of the national debt. These have always been a charge on the taxpayers of the United Kingdom; and the maintenance of the crown, of the colonial office and its staff, and of the foreign office and the diplomatic and consular services, have also been charges to which no contributions have ever been made by the dominions.

No interference from parliament at Westminster

Parliament at Westminster never interferes in the domestic concerns of the dominions except at the instance of a dominion parliament, when, for example, an amendment to the constitution of a dominion is desired. The imperial parliament has far less to do with the internal concerns of the dominions — with those of Canada, for instance — than congress at Washington has to do with the internal concerns of the several states.

Governor-general

The presence of the governor-general at Ottawa, and the lieutenant-governors at the provincial capitals — Charlottetown, Fredericton, Halifax, Quebec, Toronto, Winnipeg, Regina, Edmonton,

and Victoria — all representatives of the king, are about the only manifestations in Canada of the close connection between the Dominion and Great Britain.

**Appointment of governor-general**

The governor-general is sent out from London. His salary and establishment charges are paid by the Dominion. Lieutenant-governors are appointed at Ottawa. But while the governor-general is appointed by the king, on the recommendation of the British cabinet, always with the approval of the executive of the Dominion, no other civil servants are appointed by the British government; and there is no interference from the colonial office with the internal affairs of any of the dominions.

**Crown colonies**

Crown colonies stand in quite another relation to parliament and the colonial office. Many of them have elected, or partly elected and partly nominated, legislatures, with fiscal and police powers and comprehensive law-making powers. They have not responsible government as it exists in the dominions. Their executives cannot be dislodged by an adverse vote in the legislature.

**Classification of crown colonies**

At the colonial office crown colonies are constitutionally grouped into five classes: (1) Colonies possessing an elected house of assembly and a nominated council, e.g. the Bahamas, the Barbados, and Bermuda; (2) colonies possessing a partly elected legislative council, the constitution of which, as in British Guiana and the island of Cyprus, does not provide

for an official majority; (3) colonies possessing a partly elected legislative council, the constitution of which provides for an official majority, e.g. Fiji, Leeward Islands, Jamaica, and Malta; (4) colonies and protectorates in which there are legislative councils appointed by the crown, e.g. British Honduras, Ceylon, East Africa Protectorate, Falkland Islands, St. Lucia, St. Vincent, Seychelles, Sierra Leone, Southern Nigeria, Straits Settlement, and Trinidad; and (5) colonies and protectorates in which there are no legislative councils or representative institutions, e.g. Ashanti, Basutoland, Bechuanaland, Northern Nigeria, the northern territories of the Gold Coast, St. Helena, Uganda, Weihaiwei, and the islands under the protectorate of the Western Pacific High Commission.

**Attitude of Great Britain towards crown colonies**

Great Britain, at an early stage in the new colonial era — the era that may be dated from 1840 — determined that the development of these crown colonies, most of them tropical possessions in which there can never be a preponderant white population, was a necessity to the British Empire. It was then realized that such a development could come only through a partnership between the white and the colored races.

Different methods have been adopted in working towards the development of these colonies.[1]

[1] "Beyond anything, such success as has attended our people in dealing with colored races has been the result of practical good sense, which has not attempted to drill alien

**General policy towards crown colonies**

These methods represent a variety of means to a single end. They represent stages of constitutional and social development adapted to differing stages of civilization. The general policy is to adapt to every administrative unit of the empire the principles that have long been applied in working out the political, social, and economic welfare of the British nation, and to establish in each of the crown colonies the order, stability, freedom, and justice that are characteristics of British political civilization.[1]

**Relations of colonial office with crown colonies**

Grants in aid are sometimes made to crown colonies by the British parliament. Higher civil servants, as well as governors, are sent out from London; and the supervision by the colonial

peoples on one uniform pattern or to stamp out diversity, but has utilized the men and the things native to the soil and familiar to the peoples — the sultan, the headman, the village community; respecting customs and creeds, letting the peoples live their own lives in their own way, provided that they abide by the general rules which distinguish humanity from barbarism; gradually leavening them with the British spirit of freedom rather than inculcating a sense of British domination. By eschewing uniformity, by adapting methods to diverse peoples of diverse lands in preference to recasting the peoples in a strange mold, by ensuring life and property and even-handed justice, by letting conditions grow instead of forcing them, the English control many millions in singular contentment and goodwill." — C. P. Lucas, "The Crown Colonies and Protectorates," Manchester *Guardian*, March 30, 1917. Cf. Josiah Royce, "Race Questions, Provincialism, and other American Problems," 22–25.

[1] Cf. Sir Charles Bruce, "The Broad Stone of Empire: Problems of Crown Colony Administration," I, 34–35.

office of these oversea possessions — most of them colonies in which the white population is largely outnumbered by natives — is usually close and continuous.

**Development of responsible government**

The establishment of representative and responsible government in the dominions — the creation of these autonomous states of the British Empire — was a gradual process. It went on most quickly and most obviously from 1840, when the provinces of Quebec and Ontario were united, until 1893. It did not stop in 1893 when responsible government was granted to Natal. Other concessions, all tending to autonomy and sovereignty, were made after the last of the dominions became self-governing.

**Influence of United States on British colonial policy**

The process, going on almost continuously since 1840, has been one in which the United States, quite unconsciously to most Americans, has had a large and easily traceable influence. This influence has been due to the political development of the United States since 1783, and also to the fact that the old British North American provinces of Nova Scotia, Prince Edward Island, New Brunswick, Quebec, Ontario, and British Columbia, in their formative period, were neighbors of the United States, which greatly influenced their social, political, and economic life, as since 1867 the United States has influenced the life of the Dominion of Canada.

There have been four eras in British colonial policy and history since 1776–1783. The first

**Four eras in British colonial policy since the American revolution**

extended from 1783 to the Papineau and Mackenzie rebellions in Lower and Upper Canada in 1837. The second lasted from 1837 to the confederation of the British North American provinces, which was accomplished between 1865 and 1873; and the third was from 1873 to the great war, from which began a fourth era in the colonial history of the British Empire.

**Concessions from 1837 to 1907**

The process of establishing representative and responsible government in the dominions — so far at any rate as it depended on parliament at Westminster and the colonial office — did not begin until the union of the provinces of Quebec and Ontario, an experiment which was a direct result of the Papineau and Mackenzie rebellions. It was only as recently as 1907 that Great Britain, in continuation of the process, finally and fully conceded to the dominions the much valued right to appoint their own plenipotentiaries to make their commercial treaties with foreign powers.

**Demands for colonial autonomy**

In this gradual development of self-government, statesmen of what are now the dominions had the largest part. With them, and in particular with the statesmen of British North America, originated the successive demands between 1820 and 1907 for more autonomy and for less control by parliament at Westminster and by the colonial office.

Papineau and Mackenzie, in the years from 1820 to the union of the provinces, risked their

lives in pressing on the British government the first of these demands. Galt, the most famous of the ministers of finance of the United Provinces, pressed to success in 1859 the demand for the right of the provinces to make their own tariffs without regard to the industrial interests of Great Britain.

Men who made these demands

John A. Macdonald, Alexander Galt, Charles Tupper, George Brown, George Etienne Cartier, Edward Blake, Wilfrid Laurier, Richard Cartwright, and William S. Fielding pressed other demands from the negotiations which preceded confederation in 1867 until the right of the dominions to make their own immigration laws and their own commercial treaties was conceded in 1904 and 1907..

Quite sixty years had elapsed, and there had been the rebellions in Canada, before statesmen at Westminster really began to learn the lesson of the American revolution. Then they gradually conceded the demands that were made from the colonies that are now of the dominions. They themselves suggested little. They originated few of the developments that have contributed to the autonomy of the dominions. But after 1837 they became more receptive to demands from colonial statesmen; and except for Galt's demand of 1859, for the right of the provinces to make their own tariffs, and some delay in fully conceding the demand of the dominions to make their own commercial treaties, there was no

British statesmen at last learn the lesson of 1776-1783

grudging in conceding these demands after the lesson of the American revolution had once been learned.

**New policy strengthens the links of empire**

After it was realized that as concessions towards autonomy were granted the links binding the dominions to Great Britain became stronger instead of weaker, there were no compromises with the demands. As the result of the colonial statesmanship that pressed these demands, and the statesmanship at Westminster that conceded them, responsible government for all the colonies that are now of the dominions had been established for at least two decades before 1914; and its establishment, and the success which has attended it in Canada, Australia, New Zealand, South Africa, and Newfoundland, is the greatest political achievement of people under British rule in the 140 years between the American revolution and the war between Great Britain and her allies and the Teutonic powers.

## CHAPTER II

### THE DOMINION OF CANADA — AREA, PHYSICAL FEATURES, AND DISTRIBUTION OF POPULATION

Area of the Dominion of Canada

IN area and population Canada is the largest of the dominions. Politically and economically it is, with the possible exception of India, the most interesting of the British oversea possessions. It embraces the northern half of the North American continent, with its adjacent islands in the Arctic Ocean, but exclusive of Alaska in the extreme northwest, the island of Newfoundland, and the small islands of St. Pierre and Miquelon, which are colonies of the French republic. The total area of the Dominion is 3,729,665 square miles. Of this, 309,000 square miles are comprised in the arctic islands.

Canada and Newfoundland

Newfoundland, the oldest of the British oversea possessions in the New World, has an area of 42,000 square miles; and the aggregate area of these two dominions — Canada and Newfoundland — is 3,771,665 square miles. This is a little more than the area of the United States; larger by 640,333 square miles than the combined area of the commonwealth of Australia and the dominion of New Zealand, and not much smaller than the aggregate area of all the countries of Europe.

Coast-lines of the Dominion

The Atlantic and Pacific coasts of the United States are much straighter than those of the Dominion. The Canadian coastline on both oceans is much indented with gulfs and bays — particularly the Atlantic coast. These gulfs and bays are good feeding and breeding grounds for fish. They also afford many harbors and havens for fishermen, thus giving Canada the most extensive sea-fisheries in the world.

Hudson Bay

Hudson Bay — a sea 800 miles from north to south, and 600 miles in width — is wholly within the Dominion. For two centuries Hudson Bay had great influence on exploration and trade in Canada. With the enormous development of grain growing in what are now the provinces of Manitoba, Saskatchewan, and Alberta, between 1898 and 1916, and with the construction by the Dominion government in the years from 1910 to 1916 of a harbor, with wharfs and elevators for the grain trade, at Port Nelson, and a railway 410 miles long from Le Pas, Manitoba, to this new port, Hudson Bay is again of importance in the trade and transport economy of the large area of Canada that lies between the Great Lakes and the Rocky Mountains.

Great Lakes and the connecting canals

Canada has a common use with the United States of all the Great Lakes — Ontario, Erie, Huron, Michigan, and Superior; and also a common use of the St. Lawrence from its source in Lake Ontario to the Atlantic Ocean. Since 1854, when by treaty the United States conceded

the privilege of free navigation of Lake Michigan to Canada, and Great Britain conceded to the United States the navigation of the St. Lawrence, both countries have had joint use of the series of magnificent canals — Canadian and American — that make navigation possible from Lake Superior to tidewater below Montreal.

St. Lawrence River

The St. Lawrence occupies an even larger place than Hudson Bay in the history of Canada, particularly as regards exploration and trade, and incidentally as regards diplomatic relations with the United States. In the sixteenth century it opened a route for exploration, colonization, and trade. It led Cartier, the explorer, in 1535 to the sites now occupied by the cities of Quebec and Montreal.

Its influence on the development of Ontario

In the eighteenth century, after the creation of the province of Ontario by the Quebec act of 1791, and in the nineteenth century, it was the St. Lawrence, with its importance in inland navigation, that brought into existence the Ontario cities of Prescott, Kingston, Hamilton, and Toronto; and with the opening of the Canadian Pacific Railway from Montreal to Vancouver, in 1886, there came into existence, as the most western cities on the lakes and St. Lawrence route, Port Arthur and Fort William, also in Ontario, the largest grain ports in the British Empire.

It is within the power of the Dominion parliament to organize territories into provinces. Three

Creation of new provinces

provinces have been so created since Confederation. They were carved out of the vast territory lying between Lake Superior and the Rocky Mountains, over which the Hudson Bay Company ruled from the reign of Charles II until 1869, when its rights were acquired by purchase by the Dominion government. Manitoba was created a province in 1870, Saskatchewan and Alberta in 1905.

Political divisions of the Dominion

Since 1905 the Dominion has been politically divided into nine provinces and two territories. The territories are Yukon and the northwest territories. Yukon is bounded on the west by Alaska, on the south by British Columbia, on the north by the Arctic Ocean, and on the east by the northwest territories, which extend to the western shore of Hudson Bay. Both territories lie north of the sixtieth parallel — the northern boundary of all provinces west of Ontario. There were in 1916 fewer than 30,000 people in these territories.

Yukon Territory

Only in the Yukon is there any industry — that of gold mining, of which Dawson, the political capital, is the center. The Yukon is the only territory that elects a representative to the house of commons at Ottawa.

Order in which provinces entered Confederation

The provinces in the order in which they came into Confederation are: Quebec, Ontario, Nova Scotia, and New Brunswick, 1867; Manitoba, 1870; British Columbia, 1871; Prince Edward Island, 1873; and Saskatchewan and Alberta,

1905. Quebec is the capital of the old French province; Toronto of Ontario; Halifax of Nova Scotia; Fredericton of New Brunswick; Winnipeg of Manitoba; Victoria, on Vancouver Island, of British Columbia Charlottetown of Prince Edward Island; Regina of Saskatchewan; and Edmonton of Alberta.

Representation in parliament at Ottawa

These are the political divisions which are under provincial or territorial government for domestic concerns; each, with the exception of the northwest territories, with its quota of senators and commoners in the Dominion parliament — a quota that as regards the house of commons is determined by act of parliament after each decennial census.

Population and representation

The area of each of the nine provinces and of the Yukon and northwest territories, the population of each at the census of 1911, and the number of senators and members of the house of commons allotted to each province and to the Yukon by the redistribution act of the Dominion parliament of 1914 and as regards the senate by the amendment to the British North America act of 1915 [1] are stated in the accompanying table.[2]

Climate of Canada beyond the Great Lakes

As the Dominion embraces almost half the North American continent, it has a diversified climate. On the Pacific coast, with the ocean on one side and lofty mountain ranges on the other, the climate is moist and temperate. East of the

[1] British Statutes 5 and 6, George V, c. 45.

[2] Canada Year Book, 1914, 41, 43.

| Province | Area sq. m. | Population, 1911 | Representation Sen. | H.C. |
|---|---|---|---|---|
| Quebec | 705,834 | 2,003,232 | 24 | 65 |
| Ontario | 407,262 | 2,523,274 | 24 | 82 |
| Nova Scotia | 21,418 | 492,338 | 10 | 16 |
| New Brunswick | 27,985 | 351,889 | 10 | 11 |
| Manitoba | 251,832 | 455,614 | 6 | 15 |
| British Columbia | 355,855 | 392,480 | 6 | 13 |
| Prince Edward Island | 2,184 | 93,728 | 4 | 3 |
| Saskatchewan | 251,700 | 492,432 | 6 | 16 |
| Alberta | 255,285 | 374,663 | 6 | 12 |
| Yukon Territory | 207,076 | 8,512 | .. | 1 |
| Northwest Territories | 242,224 | 18,481 | .. | .. |
| Totals | 3,729,665 | 7,206,643 | 96 | 234 |

Rocky Mountains, on the high level plateaus of Alberta, Saskatchewan, Manitoba, and the northwest territories, the climate is characterized by extremes of temperature, but is bright, dry, bracing, and healthy.

**Climate from Great Lakes to Atlantic Ocean**

East of Manitoba the extremes of heat and cold are modified by the Great Lakes. In the valleys of the Ottawa and St. Lawrence a cold but bright and exhilarating winter is followed by a long and warm summer. The Maritime Provinces, lying between the same parallels of latitude as France, and with shores washed by the Atlantic, are equally favored in climate.

**Spring and summer in the maritime provinces**

The opening of spring in the Maritime Provinces is usually a little later than in Ontario or in the prairie provinces, and a little earlier than in the lower St. Lawrence valley. On the other hand summer lingers longer, especially in the Annapolis valley. Summer in the Maritime Provinces is not as a rule quite so warm as in

western Canada. Great heat is seldom experienced, except very occasionally at inland places in New Brunswick.

Snow and its advantages

From Alberta to the Maritime Provinces there is in the winter much snow. It lies deep over this area from November or December until March. But the value of this covering of snow cannot be overestimated. It protects the roots of trees and herbage during the severe weather, and east of the Great Lakes it also greatly facilitates the lumber industry.

Ice-closed ports

The Great Lakes never freeze over, but ice closes the harbors from the middle of December until the beginning of April. The average date of the closing of navigation on the St. Lawrence at Montreal is December 16, and of its opening April 21. Harbors in the Gulf of St. Lawrence are likewise closed by ice during the winter months.

Winter ports of eastern Canada

On the Bay of Fundy and the coast of Nova Scotia, harbors are open all the year round. Halifax and St. John, by this freedom from ice, obtain their importance as the Atlantic winter ports of the Dominion. In particular they owe to this great advantage over the St. Lawrence ports their constantly increasing importance on the national grain route — lake, canal, and rail — which stretches from Port Arthur and Fort William on Lake Superior to the Atlantic seaboard.

The coal fields and coal deposits of the Dominion are the most extensive and best known of its

**Coal areas of Dominion**

mineral resources. The known area underlain by workable coal beds is nearly 30,000 square miles.

**Coal areas and the distribution of population**

Notwithstanding the vastness of these deposits, the total quantity of coal annually mined in Canada is less than half of the country's consumption. The coal fields are found principally in the coast provinces — Nova Scotia, New Brunswick, and British Columbia — and in Alberta. The central provinces, Ontario and Quebec, — in which in 1916 four sevenths of the total population was concentrated, — are without coal. They are nearer to Pennsylvania, Ohio, and Indiana than to any of the coal-producing provinces; and consequently they find it more economical to draw their supplies of coal — bituminous as well as anthracite — from these American coal fields. American coal in large quantities is also imported by the prairie provinces. Anthracite, and some special bituminous coals from Pennsylvania, are used as far west of Lake Superior as Winnipeg and Brandon.

# CHAPTER III

## THE GEOGRAPHIC AND ECONOMIC DIVISIONS OF THE DOMINION

Four geographic and economic divisions

IT has been customary since Confederation to group the provinces geographically and economically. There have been, since the prairie provinces were organized, four of these geographic and economic divisions. All of them are well marked, and generally accepted in political and economic understanding.

### I. *The Maritime Provinces*

Provinces "down by the sea"

In one group, the oldest and a group that is tenacious of its British traditions and its local political history, are the Maritime Provinces — Nova Scotia, New Brunswick, and Prince Edward Island. These three provinces are often colloquially described in parliament and in the press as the provinces "down by the sea."

Maritime provinces before Confederation

Before Confederation these provinces had many common interests, so many in fact that in 1864 there was a movement for a legislative union. This movement culminated in an interprovincial conference at Charlottetown, which had the effect of greatly facilitating Confederation.

Before Confederation the Maritime Provinces

Old free-trade provinces

had tariffs exclusively for revenue. They had not followed the example of the united provinces of Ontario and Quebec in adopting protective tariffs in 1859, chiefly because they drew their manufactured goods from England, and there were no factories in the Maritime Provinces to be aided by protection. For thirty years after Confederation the people of these provinces were opposed to the protectionist policy of the Ottawa government, and also to the large expenditures on the canals of Quebec and Ontario, from which they then derived no direct advantage.

Common interests of the provinces "down by the sea"

In later years their common interests have been shipping and fishing, lumber and coal industries, agriculture, and the general economic interests of a long-settled and sparsely distributed maritime population, much less affected by the cosmopolitan immigration of the years from 1898 to 1914 than any other division of the Dominion.

## II. *Central Canada*

Characteristics of people of Quebec and Ontario

Quebec and Ontario form the second of the geographic and economic groups. These provinces constitute what is known as central Canada. In general each is inhabited by people of a different race, language, and religion and of differing philosophies of life. Quebec is peopled by French-Canadians, who are Roman Catholics, and unambitious and content with the domestic joys afforded by their homes, their occupations, their religion, and their province.

Ontario is inhabited by people of English or Scotch origin, speaking English, of the Protestant religion, energetic and ambitious, and nearer in temperament and character to Americans of New England or of the middle west than to their eastern neighbors in Quebec, or the present generation of people in England or Scotland.

Economic interests in common

There is more or less antagonism between these two peoples — an antagonism which can be traced back almost to the American revolution. Despite these differences in race, language, religion, and outlook on life, and despite the antagonism which not infrequently manifests itself at Ottawa, and at the provincial capitals of Toronto and Quebec, no other provinces in the Dominion have achieved so much in common politically, or have so much in common economically, as Ontario and Quebec.

Ontario and Quebec and the new era in British colonial policy

It was these provinces that made most of the constitutional history of Canada from the Quebec act of 1791 to Confederation in 1867. In this respect no other provinces in any of the dominions have more beneficently affected the colonial policy of Great Britain. The modern era of colonial policy, the fruits of which were the loyal, unstinting, and whole-hearted support of Great Britain in the war with Germany, had its beginnings between 1837 and 1845 in what are today the central provinces of the Dominion.

Ottawa

Ottawa, the Dominion capital since Confederation, is situated just within the eastern boundary

of Ontario, with only the stately and quick-flowing Ottawa River dividing it from Hull, the most western city of Quebec.

**A provincial capital becomes the capital of the Dominion**

The original plan was that Ottawa should be the capital of the united provinces of Ontario and Quebec. This was the design when it was selected by Queen Victoria in 1859. But Confederation of all the British provinces on the mainland of North America, long desirable and long inevitable, was coming into being as the beautiful parliament building at Ottawa was rising on its foundations on the bluffs above the widening out of the Ottawa River, and within a year from the completion of the parliament building the senate and house of commons of the Dominion of Canada were in possession.[1]

**Ottawa: its remoteness from the coast cities**

From Halifax to Ottawa the distance by rail is 940 miles; from Charlottetown it is 914 miles; and from St. John it is 597 miles. From Victoria to Ottawa, by the Canadian Pacific Railway, the distance is 2867 miles; from Vancouver 2783 miles; from Edmonton, 2145 miles; from Regina, 1656 miles; and from Winnipeg, 1299 miles.

**Newer cities of the Dominion**

Halifax, Charlottetown, and St. John, and Quebec, Montreal, Kingston, Toronto, and Hamilton, were cities of commercial importance in the days of the old British North American provinces. Only two cities west of the Great Lakes, Winnipeg and Victoria, were in existence at Confederation. Vancouver was a creation of the Canadian

[1] Cf. J. D. Edgar, "Canada and Its Capital," 51–52.

Pacific Railway after 1886. Regina and Edmonton were only Hudson Bay Company posts until the Canadian Pacific Railway — the first of the transcontinental railways — was pushed across the prairies and over the mountains of British Columbia.

**A monument of the new British colonial policy**

Ottawa is not conveniently situated as the capital of the Dominion. As population increases it may not remain as the capital. But for fifty years Ottawa has served not only as the capital of the Dominion, but also as the most outstanding monument in the empire of the new colonial policy of Great Britain, which began with the union of Ontario and Quebec. Ottawa was the creation of these provinces, and the Dominion succeeded to it at Confederation. Its early history, its transformation from the little lumber camp and distributing center of Bytown into the most important political capital in the overseas dominions, belongs jointly to Ontario and Quebec.

**Manufacturing interests of Ontario and Quebec**

A share in molding the newer colonial policy of Great Britain is not all that the provinces of Quebec and Ontario have in common. There are present-day material advantages of enormous value, peculiar to central Canada, which these two provinces possess in common.

Manufacturing in the two decades that preceded the great war had been developed in Nova Scotia and New Brunswick. Nova Scotia is the largest iron and steel producing province; and

like New Brunswick it has several cities in which the cotton and woolen industries are established. Some large indigenous industries are established at Winnipeg, Brandon, Regina, Calgary, and other cities of the prairie provinces. But Ontario and Quebec, Ontario in particular, are the manufacturing provinces of Canada. The manufactures of these provinces are shipped east and west — to the Maritime Provinces, and to all the provinces west of the Great Lakes.

**A predominance that is abiding**

The predominance of the central provinces in the manufacturing economy of the Dominion, which must necessarily be theirs for generations to come, is easily explained. Quebec and Ontario were the British North American provinces of largest population from 1840 to Confederation, and from Confederation to the war. All through the nineteenth century Ontario attracted more immigration from England and Scotland than any of the other provinces. It first attracted immigrants to its vacant lands; and as these were gradually cleared and occupied and cities developed, it attracted immigrants to its farms and to its cities.

**Quebec and the stream of immigration**

Immigration from the United Kingdom went only to the cities of the French province — to Quebec, Three Rivers, and Montreal. The rural economy of the province — its habitants speaking only the French language, and socially and industrially sufficient unto themselves, and also the religious and at times political supremacy

of the Roman Catholic Church — repelled rather than attracted newcomers from England and Scotland. Those who did not establish themselves in Montreal or Quebec pushed farther west to Ontario, where social conditions were more akin to those they had left behind.

When Canada meant Ontario

Until Manitoba was opened for settlement by the construction of the Canadian Pacific Railway across the province in 1884, and in fact until after the great immigration propaganda of the Dominion was begun in 1898, when an Englishman or Scotchman told his neighbors in the old country that he was emigrating to Canada it usually meant that he was going to Ontario.

A province with some of the physical characteristics of England

There was some immigration into the Maritime Provinces in the nineteenth century. Between 1812 and 1828, 25,000 Highlanders from Scotland settled in Cape Breton, Nova Scotia; and Gaelic is still the language of thousands of men and women in Nova Scotia. But the main stream of immigration until the end of the nineteenth century, both from England and Scotland, was to the St. Lawrence ports of Quebec and Montreal, and thence into wide and beautiful Ontario, a province that in some parts is more like the midland and western counties of England than any other part of Canada.

Beginning of manufacturing in Ontario

The needs of a large and growing population gave the first impetus to manufacturing in Ontario and also in Montreal, which, as regards trade and commerce, is nearly as closely inter-

woven in the life of Ontario as it is in that of the old French province. This impetus came in the days of small undertakings in manufacturing, in the days when $10,000 was a large capital for a manufacturing enterprise.

**Raw materials from the United States**

Some raw materials for manufacturing were to hand in Ontario. What was lacking could easily be procured from the United States, on which Canadian manufacturers, in the Maritime Provinces, as well as in Ontario and Quebec, have, from the first, drawn largely for raw materials, and also for partly finished materials to be carried further in the process of manufacturing.

**Influence of the protectionist tariffs of the United States**

The United States has influenced manufacturing in central Canada, and through central Canada in the Maritime Provinces, in three distinct ways. In the forties and fifties of the last century, American manufacturing development, and particularly the development of New England, served as an example to Canadians. The adoption by the United States in 1842 of a frankly protectionist policy impelled the united provinces of Ontario and Quebec to the adoption of a similar fiscal policy in 1858–1859; and since 1879 successive increases in the protectionist tariffs at Washington have been followed by increases in the tariffs at Ottawa.

**Coal and ore from the United States**

Finally it was possible for the manufacturers of Ontario and Quebec to draw on the United States for coal and ore, for cotton and other raw materials, and for partly finished materials at

less cost in transport than from any other source of supply.

**Transport systems of Ontario and Quebec**

The transport system of these two provinces — their railways and their lake and canal navigation systems — are so similar to these systems in the states that border on the lakes, the St. Lawrence, and the boundary line, and they are so interwoven through the system of bonding traffic crossing and recrossing the border, that only the customs houses recall the fact that Ontario and Quebec are provinces of Canada, while Maine, Vermont, New York, Pennsylvania, Ohio, Indiana, Illinois, and Michigan are states of the American republic.

**Conditions that favor the central provinces**

There will be more development of manufacturing in Nova Scotia and New Brunswick. This is inevitable in provinces endowed by nature with much water power, abundantly supplied with lumber and coal, and to which ore is contiguous, as it is at Belle Island, Newfoundland, for the manufacture of iron and steel on a large scale. The war brought two modern steel shipbuilding plants into existence in Nova Scotia. There will be further development of manufacturing in the prairie provinces. But the absence of many of the raw materials of manufacture, and the long distances that materials must be carried, will always seriously handicap manufacturing in the part of Canada that lies beyond the Great Lakes.

The hold that central Canada has secured on

the manufacturing economy of the Dominion is, therefore, likely to be as permanent as the hold that Lancashire and Yorkshire, and the counties of the black country, secured in the manufacturing economy of England in the earlier years of the industrial era.

**Ontario long a protectionist province**

The protective policy of Canada originated in Ontario. Before Confederation it was Ontario that maintained the protective system of the United Provinces. Since Confederation, and especially since 1897, protection has been supported by the mining and manufacturing communities of Nova Scotia and New Brunswick. But its stronghold today, as for sixty years before the war, is in Ontario; and this fact explains the sharp political division between central Canada and Canada beyond the Great Lakes.

**Trade relations of the central provinces with Canada beyond the Great Lakes**

In comparison with Ontario and Quebec, the prairie provinces have few manufacturing industries. There is no great staple industry except flour milling; and the people of these provinces, who are mostly grain growers, must, for the manufactures that they need, pay the higher prices which the thirty-five and forty-two and a half per cent duties of the Dominion tariff enable the manufacturers of Ontario and Quebec to exact.

**National grain route**

Predominance in manufacturing, and the lion's share of the benefits of the protective tariff, are not the only material advantages due to geo-

graphical, economic, and political conditions that Ontario and Quebec enjoy. British Columbia, and all the provinces east of the Great Lakes with the exception of Prince Edward Island, are largely dependent on the grain-growing provinces for their prosperity, and in particular for their industrial development. With the extension of grain growing in the prairie provinces there is a larger call for the lumber, coal, fish, and fruit of British Columbia; for the services of lake steamers that are on the Canadian register; for the services of the three railway companies that handle grain en route from the lower lake ports to tidewater; for the loanable capital that is concentrated in Toronto, Montreal, and Halifax; and also for the output of the factories of Ontario, Quebec, New Brunswick, and Nova Scotia.

**The effect of a good harvest in the grain-growing provinces on pay rolls east of the Great Lakes**

An abounding harvest in the prairie provinces — a harvest in which the crop greatly exceeds that of the preceding year — beneficently affects the payroll of every factory from Fort William to Sydney and Halifax, and also the turnover of nearly every wholesaler and retailer in these four provinces east of the Great Lakes. But in addition to enjoying by far the larger share of the trade in factory-made goods of the prairie provinces, both of the central provinces — Ontario and Quebec — derive much profit from the transport business of Manitoba, Saskatchewan, and Alberta — from the carriage westward of machinery and other manufactured goods, and

the transport eastward to tidewater on the St. Lawrence and to the ports of the Maritime Provinces of grain and flour from the west.

**The transport business of Ontario and Quebec**

Three provinces west of the Great Lakes, and two of the five provinces east of the Lakes, all need the transport services of Quebec and Ontario. Grain bulks largest in the transport business of the central provinces; and it is for this reason that Ontario and Quebec, for thirty years before the war, were more interested than any of the other provinces east of the Lakes in the continued efforts to divert as much as possible of the western grain from Buffalo to Montreal, Quebec, Halifax, St. John, and Portland.

**Place of Buffalo on the grain route**

All the wheat of the grain-growing provinces used in Canadian flour mills east of the Great Lakes, and all the wheat for export across the Atlantic, passes through some one of the thirty elevators at Port Arthur and Fort William. So far in the history of the western grain trade, since its beginning in 1884, in each navigation season more than half the wheat has been carried to the seaboard from these Ontario ports on Lake Superior by way of Buffalo.[1] The payment for its handling and transport, after it had left the Canadian elevators at the head of the Great Lakes, accrued to owners of American lake steamers, American elevators, and American railways.

[1] Cf. Annual Report of the Council of the Quebec Board of Trade, 1917, p. 63.

Grain en route to the Atlantic seaboard of the Dominion

The rest of the wheat for export is shipped from Montreal, Quebec, Portland, St. John, and Halifax — most of it from Montreal. Wheat for Canadian shipment is carried direct from Port Arthur and Fort William over the lake and canal route, or it is carried to Canadian transfer ports on the lower lakes — Huron or Erie — and thence by Canadian railways or canals to Montreal.

No reciprocity in lake navigation

There is in normal times no reciprocity between the Dominion and the United States in lake navigation.[1] Canadian vessels are not permitted by the United States navigation laws to carry cargoes from one American port to another; and vessels on the United States register are not permitted by the navigation code of the Dominion to carry cargoes from one Canadian port to another. Except for occasional cargoes from Ogdensburg, a port on the St. Lawrence in the

[1] In the lake navigation season of 1917, for the first time in the history of Canada, there was reciprocity in lake navigation. Canadians had desired this reciprocity since the old navigation code of Great Britain — the code that had its beginnings in the seventeenth century — was remodeled and made much less exclusive in 1847. Washington, however, declined all overtures for reciprocity in lake or coastwise navigation from 1847 until April, 1917, when the United States joined France and Great Britain and the other allies in the war against the Teutonic Powers. Reciprocity in lake shipping was then established as a war measure; and also as a war measure there was a suspension of the convention of 1818 under which the United States and Great Britain agreed that no war vessels should be built or maintained on the lakes.

state of New York, all the grain from Port Arthur and Fort William that goes to Montreal, whether directly by lake and canal, or by way of Ontario transfer ports, goes in vessels that are on the Dominion or the British register.

**Importance to the central provinces of the grain-handling business**

The transport business in this Lake Superior and Montreal grain trade is thus secured to Canadian vessels. Ontario ports on the lower lakes get the transfer and storage business. Those divisions of the Grand Trunk, the Canadian Pacific, and the Canadian Northern railways that are in the provinces of Ontario and Quebec get the railway haul.

**The port equipment of Montreal**

Montreal, with the largest and best grain-handling equipment of any tidewater port in the world, gets the tidewater terminal elevator business; and in normal times the transport of grain from Port Arthur and Fort William to Montreal — elevating, storing, and shipping it thence overseas — puts ten cents a bushel into the treasuries of the commission, transport, and elevator companies which handle the business.[1]

**Shipyards of the central provinces**

Most of this ten cents — a sum which does not include oversea freight charges — goes in payment for labor, for services rendered to the shippers of grain. It represents mainly payments in wages to men who are employed on the lake vessels, on the railways, and in the elevators. It is this grain business also that finds work for

[1] Cf. Cowie, "The Transportation Problem in Canada," 47.

the shipyards of Ontario and Quebec, for the two large and well-equipped yards on the St. Lawrence, and for the yards on the lakes at Kingston, Toronto, Collingwood, and Port Arthur.

Share of the central provinces in the business of the national grain route

There has been an increase in the wheat crop of the prairie provinces almost every year since 1884. In the grain year 1915–1916, these provinces had 264,000,000 bushels of wheat for export. Much less than half of this wheat went oversea from Montreal, Quebec, Halifax, and St. John. The greater part went by way of Buffalo, and was shipped across the Atlantic from Boston, New York, Philadelphia, Baltimore, and Newport News.

Canals of the central provinces

The constantly increasing production of wheat in Canada beyond the Great Lakes, the value of the transport business to Ontario and Quebec, and the long-established and successful competition of the Buffalo route, explain why, since 1871, it has been the continuous policy of the Dominion government to improve the Canadian canals on the national grain route.[1] The aim of the government at Ottawa in constructing the lock and the canal at Sault Ste. Marie, Ontario; in deepening and enlarging the canals; in providing a fourteen-foot waterway in the Welland and St. Lawrence canals; in creating a well-equipped transfer port at Colborne at the Lake Erie entrance to the Welland Canal; and in aiding harbor boards to

[1] Cf. Canal Commission, Sessional Papers, No. 54, 1871, 17–35.

equip the tidewater ports with ample elevator accommodation and grain-handling facilities, was to reduce the time and the cost of lake and canal transport.

**The transport policy of the Dominion government**

For forty years before the great war, canal and port improvements, conceived on a generous scale, were the continuous policy of both Conservative and Liberal governments at Ottawa. Its aim was to divert as much as possible of the export grain business of the prairie provinces from Buffalo, to the St. Lawrence canals and the Atlantic ports of the Dominion. In this policy, as in the policy of deepening the world-famous ship channel from Montreal to Quebec, the government at Ottawa, regardless of party complexion, always had the support of central Canada.

**Montreal and Toronto the financial centers of the Dominion**

Finally in this examination of the geographical and economic conditions of Ontario and Quebec—conditions which must be understood, if there is to be any understanding of contemporary politics of the Dominion—there is the fact that Montreal and Toronto are the financial centers of Canada. These cities are to Canada what New York, Boston, and Chicago are to the United States. The head offices of the great banks—banks with scores of branches in every province—are in Montreal and Toronto. Those of the Grand Trunk and the Canadian Pacific railways are in Montreal.

The great coal companies of Nova Scotia and Alberta, the iron and steel manufacturing com-

panies of Nova Scotia and Ontario, and the textile companies whose mills are established in the industrial cities of Ontario, Quebec, Nova Scotia, and New Brunswick, and most of the companies engaged in interprovincial trade, have their headquarters in either Montreal or Toronto. There are also stock and grain exchanges in both cities.

**Finance and politics**

Men who are of bank and trust company directorates, or concerned in the finance of railways and other transport companies, or are financiers of manufacturing undertakings, have much influence in Dominion politics. These men constitute the governing class of Canada, and their influence is much more potent at Ottawa than similar influence is at Westminster. It is greater and more obvious than at Washington;[1] for the tariff and transport policies of the Dominion government more frequently originate in Toronto or Montreal than with the cabinet at Ottawa.

**Governing class of Canada**

The influence thus exercised by Montreal and Toronto, and at times by Halifax, the third financial center, is notorious and of long standing; and when a rural newspaper with a circulation among farmers or grain growers alludes to Canadian barons, the editor has in mind not men who are of the lower tier of the British peerage, but the men who are dominant in the offices of the great corporations which have their head-

[1] Cf. Clarus Ager, "The Farmer and the Interests," 68.

quarters in Montreal or Toronto.[1] These two financial centers, and the social life incident to them, account almost as much as the long-established predominance of Ontario and Quebec in politics, in manufacturing, and in transport, as well as in journalism and literature, for the distinction held by central Canada in the political, economic, and social life of the Dominion.

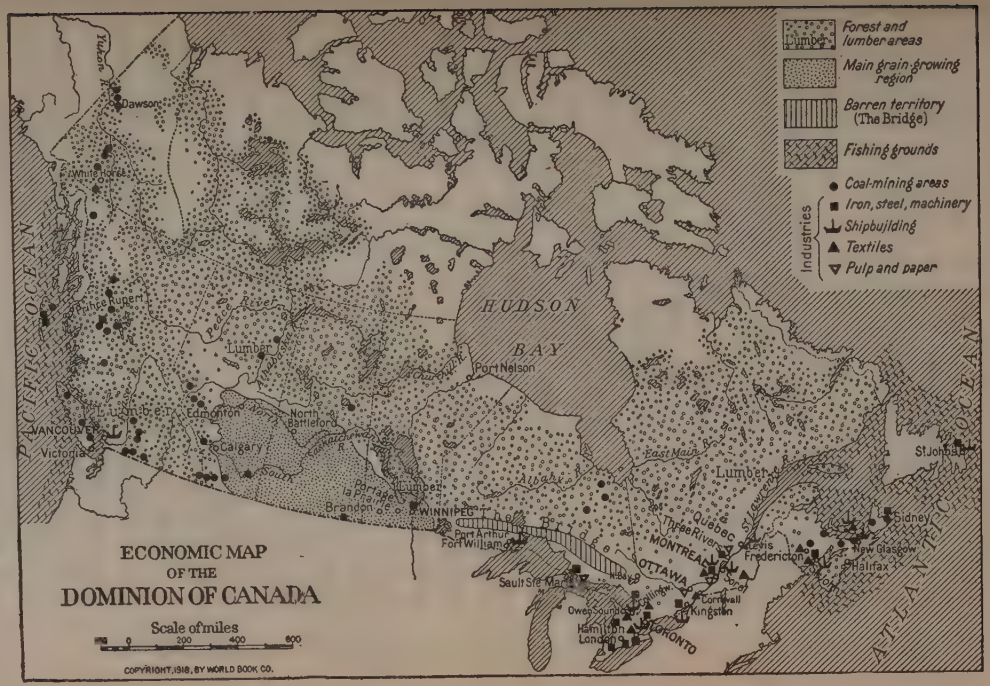
## III. *The Prairie Provinces*

**The Bridge**

What is known by railway men as "the Bridge" separates the prairie provinces from the older, settled area of Ontario. The Bridge stretches from North Bay, Ontario, an important railway center on the Grand Trunk and Canadian Pacific systems, to Kenora, on the Lake of the Woods, also in Ontario, a lake of singular beauty that is part of the eastern boundary of Manitoba.[2] The distance from North Bay to Kenora is 920 miles. The journey over the Bridge takes twenty-one hours on the Imperial Limited, the fastest train that travels over the Canadian Pacific from Montreal to Vancouver.

[1] Cf. "Canada's Aristocracy," *Grain Growers' Guide*, Winnipeg, June 25, 1913; "Our Canadian Barons," *Free Press*, Forest, Ontario, April 27, 1916. "The east is the seat of the great financial and transport interests, which are shining marks for many a western brick." — "East and West," *Quarterly Journal of the Canadian Bankers' Association*, Montreal, June, 1917.

[2] Cf. "East and West," *Quarterly Journal of the Canadian Bankers' Association*, Montreal, June, 1917.


Forest and lumber areas
Main grain-growing region
Barren territory (The Bridge)
Fishing grounds
Industries
Coal-mining areas
Iron, steel, machinery
Shipbuilding
Textiles
Pulp and paper
ECONOMIC MAP
OF THE
DOMINION OF CANADA
Scale of miles
0 200 400 600
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PACIFIC OCEAN
ATLANTIC OCEAN
HUDSON BAY
Yukon
Dawson
White Horse
Prince Rupert
Vancouver
Victoria
Edmonton
Calgary
North Battleford
Port Nelson
Winnipeg
Brandon
Port Arthur
Fort William
Sault Ste Marie
Three Rivers
Quebec
Montreal
Ottawa
Cornwall
Kingston
Owen Sound
Hamilton
London
Toronto
St John
Fredericton
Halifax
Sydney
New Glasgow

Physical characteristics of the Bridge

In these 900 miles of wilderness, where the soil is so poor as to warn off the settler, there are only three cities, Fort William, Port Arthur, and Sudbury. These cities in 1916 had an aggregate population of not more than 35,000. Besides these there are few settlements large enough to warrant being described as villages. The country is wild and picturesque. There are indentations of Lake Superior of bewitching charm, small lakes, rivers, rocks, and hills.

In winter the temperature on parts of the Bridge — at White River and at Chapleau, for instance — is lower than in any other part of any province of the Dominion. In summer and autumn the climate is superb. It is as clear and exhilarating as anywhere on the North American continent; and there are parts of the Bridge that are famous all over the world for their fishing and hunting.

Canada's wilderness

For the most part, however, the Bridge is a wilderness with only the railway and passing railway trains to remind one of the civilization to the east and west of it. There can be no country anywhere in the British oversea dominions that is crossed by a railway, except the Karoo in Cape Colony, that yields less traffic — passenger or freight — than the Bridge, if Sudbury, Port Arthur, and Fort William are left out of the count.

The Bridge was the great barrier to the opening out and development of the prairie country at

Barrier between east and west

the time of Confederation. It had a value for the Hudson Bay Company, which before 1869 was intent only on exploiting the fur trade, and unloading its imported wares — textiles, hardware, and tobacco — on the Indians; and consequently did not desire civilization or community life in its dooryard. It remained a barrier against immigration and commerce until 1884, when after fifteen years of effort, first by the Dominion government, and later by the Canadian Pacific Railway Company, railway communication was established between Winnipeg and Port Arthur.

Its influence on economic conditions

The wilderness from North Bay to Kenora is still a barrier. It is a barrier that to a considerable extent still isolates western Canada. It adds to the cost of living in the prairie provinces. Combined with a fiscal system that originated with and that favors Canada east of the Great Lakes, it makes the prairie provinces the most expensive part of the British Empire in which to dwell; for Manitoba, Saskatchewan, and Alberta have no forests available for lumber, little manufacturing, and good coal is mined only in the far northwest of Alberta.

Cost of living in the prairie provinces

Canadian flour in normal times is cheaper in England than it is in the prairie provinces. Canadian bacon, for which Canadians pay from twenty-two to twenty-eight cents a pound, was sold in England before the war for from fifteen to twenty cents a pound. It is the same with fish, lumber, or any commodity that is the

product of the natural industries of Canada; and none of the extra price which Canadians pay goes to the grain growers of the prairie provinces.[1] The political factors which largely account for these economic conditions in the prairie provinces are determined east of the Bridge, in Toronto and Montreal.

**Railways across the Bridge**

Despite the fact that since 1914 the Bridge has been crossed by two railways in addition to the pioneer Canadian Pacific, — the National Transcontinental, that extends from Moncton, New Brunswick, to Winnipeg, where it joins the Grand Trunk Pacific line to Prince Rupert, British Columbia, and the Canadian Northern, which connects all four western provinces with Toronto, Montreal, and Quebec, — it still obviously influences political, economic, and social conditions in the prairie provinces.

**Area of the grain-growing provinces**

These provinces, sharing in common all the physical characteristics that the word "prairie" suggests, extend from the Lake of the Woods to the Rocky Mountains. From east to west they stretch over a distance of 1000 miles. Northward they extend from the boundary of Dakota and Montana to the sixtieth parallel.

**Where grain elevators begin to break the sky line**

On the east the grain-growing country begins at Whitemouth, on the Canadian Pacific Railway, 390 miles west of Port Arthur, and 50 miles east of Winnipeg. Stony Plain and Nordegg, in Alberta, were in 1916 the most northwesterly

[1] Harpell, "Canadian National Economy," 12.

towns in the grain-growing area. Nordegg is 1475 miles from Port Arthur and 2951 miles from St. John, the winter grain port of the Dominion. At every railway station in the country from Whitemouth to Nordegg there are small elevators — "line" or "country" elevators as they are termed, to distinguish them from terminal and transfer elevators.

A grain route 3000 miles long

In winter, when lake navigation is closed, grain is carried from these interior elevators to Fort William and Port Arthur. From these ports it is taken over the three transcontinental railways to Montreal, thence to Halifax, St. John, and Portland, Maine; so that at some seasons of the year grain from the prairie provinces is moving to tidewater over an all-Canadian route that is 3000 miles long.

Homesteaders and grain growing

In the fifteen years that preceded the war, out of the three million immigrants who arrived in Canada from the United Kingdom, from the United States, and from the countries of Europe, one and a quarter millions went into the prairie provinces;[1] and of the immigrants who went into these provinces to acquire homesteads from the Dominion government, or to buy land from the Hudson Bay Company or the railway companies, ninety out of every hundred had embarked in grain growing.

The outbreak of the war, coming as it did in a period of industrial and commercial depression

[1] Cf. "Immigration Facts and Figures," Ottawa, 1915, 4.

The war and the grain-growing industry

in Canada that had lasted over two years — a depression more widespread and serious than any other since the turn of the twentieth century — gave a new impulse to grain growing in Manitoba, Saskatchewan, and Alberta.

The result is easily measurable. The average area under grain in the prairie provinces from 1910 to 1914 was 16,608,000 acres. At the second harvest after the beginning of the war, the aggregate area under grain was 19,797,000 acres, of which 11,744,700 acres were under wheat and 6,290,000 acres under oats.[1]

A one-crop country

There is some cattle ranching in Saskatchewan and Alberta. The sheep industry also has long been established in these provinces. As the population of Winnipeg, Regina, Saskatoon, Calgary, and Edmonton increased, there were increases in the acreage devoted to mixed farming. But the prairie provinces do not supply their own needs. They import large quantities of potatoes, butter, eggs, cheese, and fruit.

In fact, from the time railway connection was established with Lake Superior ports and eastern Canada, the vast territory stretching west from Winnipeg to Calgary and Edmonton has been a one-crop country. It is as much a one-crop country as the southern states in which cotton is grown; and nine tenths of the people in these three provinces — in the cities as well

[1] Cf. *Census and Statistics Monthly*, Ottawa, January, 1916, 28.

as in the country — are as dependent on the grain crop as the people in Pittsburgh are on the iron and steel industry, or the people of Fall River on the cotton mills.

Importance of grain growing in Canada beyond the Great Lakes to eastern Canada

Economically the prairie provinces are based on grain growing. Every city in Manitoba, Saskatchewan, and Alberta is a monument to the success of grain growing. The cities east of Winnipeg from Kenora to St. John and Halifax, and in particular Toronto, Hamilton, and Montreal, have grown in importance, extended their municipal boundaries, added to their commercial houses and their factories and to their population, as a result of the development in Canada beyond the Great Lakes.

To Montreal and Toronto

Eastern Canada of the twentieth century — Montreal with its population of 717,000 in 1915, Toronto with 534,000, and Hamilton with 102,000 [1] — owes much of its growth since 1900, the larger part of it, in fact, to railway building, home building, grain growing, and urban development in the prairie provinces. This is true also of Sydney and North Sydney, Nova Scotia, with the largest iron and steel plants in the British oversea dominions. It is equally true of Collingwood, Kingston, and Port Arthur, with their steel shipbuilding yards.

The prairie provinces realize their economic importance to Canada. Were there no boundary

[1] Estimated. Cf. Griffin, "Canada, the Country of the Twentieth Century," 20.

line, and no Canadian custom-houses, manufactured goods that are needed in Manitoba, Saskatchewan and Alberta, could be more advantageously supplied from Chicago, St. Paul, and Minneapolis, than from Toronto, Hamilton, Montreal, and the manufacturing cities of the Maritime Provinces.

**Attitude of grain-growing provinces to Canada east of the Bridge**

Except for transport services and for loans, the provinces in the east are of little economic importance to the grain-growing provinces. Their consumption of grain and flour does not affect the price of grain. The price that the grain grower receives is the same whether the grain be exported or used in Canada. It is always based on the price ruling in Liverpool and London.[1] The western point of view is that Manitoba, Saskatchewan, and Alberta could thrive far better without eastern Canada than eastern Canada could thrive without the grain-growing provinces.

**Protection and the grain-growing industry**

The western country that lies between the Great Lakes and the Rocky Mountains derives no benefit from the high tariff. British Columbia, before the war, had no manufacturing. It had no iron and steel plants and no textile industries. But it has coal, lumber, fish, and fruit, for which there is a market in Canada, and it derives considerable advantage from the protective duties on these products. The prairie provinces, except for beef, hides, and a little wool, have only grain

[1] Cf. Harpell, "Canadian National Economy," 12.

and flour to export, either to eastern Canada or oversea; and while the tariff does not influence the price of grain, it greatly increases the overhead charges of the grain grower and the cost of his maintenance.

**Dividing line in Dominion politics**

The tariff is consequently the dividing line in politics between the grain-growing provinces and eastern Canada. "More and more the east is given over to manufacture and commerce and finance. The east has imposed upon the west a fiscal system which it terms national, but which the prairie west considers sectional.[1]" The line is further accentuated by the fact that so much of the financial and political power of the Dominion is concentrated in Toronto and Montreal and Halifax.[2]

**Grain growers in politics**

Manifestations of the attitude of the prairie provinces towards eastern Canada, and its dominance in politics and finance, come almost exclusively from the grain growers, who carry most of the burden of the tariff.[3] The grain growers began to organize locally in 1903. Since then they have organized by provinces, and also interprovincially. They were 65,000 strong in 1917; and for five or six years before the war they were better organized, more articulate, and more influential in provincial and Dominion politics,

[1] "East and West," *Quarterly Journal of the Canadian Bankers' Association*, Montreal, June, 1917.

[2] Cf. Clarus Ager, "The Farmer and the Interests," 34.

[3] Cf. "The Farmers' Platform," 3–53.

than any other of the social and economic forces of the Dominion, except the bankers and financiers and the manufacturers.

**Municipal ownership in the prairie provinces**

In municipal and provincial politics the prairie provinces are distinctly radical. They are much more radical, more disposed to political experiment, than Ontario, Quebec, Nova Scotia, and New Brunswick. Water supplies and sewers are the only public utilities in eastern Canada owned by the municipalities. In the prairie provinces cities own street-car lines, natural-gas systems, and electric light and power undertakings.

**Public utilities owned by the provincial governments**

The provincial governments own telegraph and telephone systems; and in the years from 1910 to 1912 the governments of all three provinces, at the urging of the grain growers' associations, took the ground that country elevators are public utilities, and legislation was enacted providing for the public ownership of these utilities.

The prairie provinces form the most agrarian division of Canada — a fact that is manifest in much of the legislation enacted at Winnipeg, Regina, and Edmonton. It is equally manifest in the attitude of the grain growers of the three provinces towards tariff, fiscal, and railway legislation at Ottawa.[1]

The economic importance of this geographic division of the dominion will increase as new homesteads are carved out of the 25,700,000

[1] Cf. "The Farmers' Platform," 6–26, 27–40, and 41–49.

acres of surveyed lands that were available for settlement when immigration into Canada from England and Scotland and other European countries was brought to a standstill by the great war. With the increase of population that the settlement of these lands will bring, there will be an increase in the parliamentary representation of the prairie provinces at Ottawa. The continued political dominance of Ontario and Quebec is consequently not assured — not nearly so assured as their dominance in manufacturing, transport, and finance.

**Growing political importance of the grain-growing provinces**

## IV. *British Columbia*

British Columbia, a province that Canadians like to describe as the wonderland of Canada,[1] is the fourth of the geographical and economic divisions of the Dominion. The state of Washington forms its southern boundary. On the east it has Alberta as a neighbor; on the north it is bounded by Alaska and the northwest territories, and on the west by the Pacific Ocean.

**Wonderland of the Dominion**

Vancouver Island, 285 miles long and from 40 to 80 miles wide, is included in British Columbia. Victoria, on Vancouver Island, has been a political capital since 1850. It has been the capital of the province since the government of the island and the mainland was united in 1866.

**Most beautiful capital in the British Empire**

By its situation and environment it is the most beautiful capital in the British Empire, not even

[1] Cf. Griffin, 153.

excepting Capetown, where the parliament house of the Union of South Africa occupies a commanding site on the slope of Table Mountain, with the Atlantic Ocean in view from the windows of the legislative chambers. The windows of the legislative building at Victoria look out on Puget Sound; and from the windows of the legislative library, one of the best-equipped libraries in the Dominion of Canada, are visible the snow-capped mountains of the State of Washington.

**Tidewater cities of British Columbia**

Two thirds of the population of British Columbia — two thirds of a total population of 400,000 — were in 1916 resident on Vancouver Island, or on tidewater of the mainland. Vancouver had then a population of 106,000; Victoria, 60,000; New Westminster, 17,000; and Prince Rupert, the new city created by the Grand Trunk Pacific, 550 miles north of Vancouver, 3500.[1]

**Cities of the interior**

Rossland, a mining town, and Nelson, Ashcroft, Kamloops, and Revelstoke, railway and distributing centers, are the only cities in the interior. The province is separated from Alberta by the Rocky Mountains, a barrier almost as great from a political and economic point of view as the wilderness that lies between Kenora and North Bay.

The physical characteristics of British Columbia — its climate, seashore, mountains, passes, rivers, lakes, and forests; its fruit orchards, coal

[1] The last Dominion census was taken in 1911. These figures are estimates. Cf. Griffin, 20.

and other mineral resources; and its fisheries — are the pride of the Dominion. It is to Victoria and Vancouver that men retire in old age after gaining wealth in the prairie provinces or in eastern Canada. Victoria is the Newport of the Dominion. Vancouver is its Narragansett or Atlantic City.

**Physical characteristics and resources of the province**

The social characteristics of British Coulmbia are as well marked as those of Quebec. In British Columbia people of English birth or stock are predominant. The Scotch have no such hold on British Columbia as they have on Ontario or Nova Scotia. From 1850 until Confederation, the newcomers into British Columbia, other than Chinese, were from England.

**Social characteristics**

These newcomers were of the English middle classes; for before the Canadian Pacific connected Vancouver with Montreal, it was a costly undertaking to emigrate from England to British Columbia. Even after the railway was completed in 1886, there was little change in the class of immigrants; and the great immigration propaganda of the Dominion government of 1898–1914 had been pushed for ten years before there was a proletarian immigration from England and Scotland and from the countries of continental Europe into the three large cities of British Columbia.

**Immigrants into the province mostly from England**

Externally Vancouver and Victoria are the two most English cities in the Dominion — English as regards the homes of the people and their

**The most English cities**

setting; English in social life, in particular in outdoor social life; and English in fashions in dress and furniture.

**British Columbia from 1850 to Confederation**

British Columbia, like Ontario, takes pride in its pre-Confederation history and traditions. It does so with as good reason as Ontario or Quebec; for between 1850 and 1871, when British Columbia came into Confederation, more constitutional history was made in the little city of Victoria than in any other city in the oversea possessions of Great Britain.

The constitutional history that was made in Victoria in these twenty-one years did not affect the dominions as did the constitutional history that was made between 1837 and 1867 at Toronto, Kingston, Montreal, and Quebec. It did affect the terms on which British Columbia came into Confederation; and these terms greatly influenced the political and economic history of Canada.

**Influence of British Columbia on Confederation**

Had Victoria been merely a trading post of the Hudson Bay Company, like Fort Garry, which, after Manitoba came into Confederation, became known to the world as Winnipeg, or had the statesmen of British Columbia of 1866–1872 not been men of vision, alert, persistent, and resourceful, there is no telling how long would have been delayed the carrying through of the railway from Montreal to Vancouver.

No group of men in any British colony ever better earned the title of statesmen than the

group at Victoria who were in control after the Hudson Bay Company had been ousted from Vancouver Island in 1849. They had been influenced by the successful movement for parliamentary reform in England. They had witnessed the rebirth of English municipal institutions that followed so quickly the reform of the house of commons of 1832; and they had, moreover, the genius for working representative institutions — parliamentary and municipal — in the English spirit that became so widespread in England in the first half of the nineteenth century.

**British Columbia statesmen of the pre-Confederation era**

The immigrants to British Columbia from England of the years from 1849 to 1871, when they were establishing themselves in what was then the most remote and isolated of all the British North American colonies, knew what political institutions would meet their needs. They knew what they wanted from the colonial office in London, in the days when British Columbia was a crown colony, with no relation to eastern Canada except that it was on the same continent, under the same sovereign, and that it had, like eastern Canada, the United States as its neighbor. They also knew what they wanted from Ottawa and from London at Confederation; and in the long run — in the period from 1849 to 1871 — they got what they demanded from the British and the Dominion governments.

**Political genius of the early settlers in British Columbia**

Before Confederation eastern Canada knew as little about Victoria as it did about Capetown.

The old-time isolation of British Columbia

British Columbia was then almost as remote from Toronto or Quebec as Cape Colony. Overland it could be reached only through the United States, by way of San Francisco, which was then to Victoria much what Boston has long been to Halifax and St. John.

Crown colony stage of British Columbia

Political rule at Victoria by the Hudson Bay Company came to an end in 1849. From 1849 to 1871 British Columbia was a crown colony; and there was a period — 1864–1866 — during which there were two British colonies on the Pacific coast — Vancouver Island, with Victoria as the capital, and the mainland, with New Westminster as the capital.

Representative government established

Representative government, with an elected legislative assembly and a nominated legislative council, was established for Vancouver Island in 1856. The entire white population of the island and the mainland was then not more than 450, of whom 300 were resident at Victoria,[1] which from 1856 to 1871 was the Athens of the oversea dominions of Great Britain.[2]

Twenty years of political achievement

There were only 8500 white men in the whole of British Columbia at Confederation. Yet such was the political activity at Victoria between 1851, when its first legislative council was established, and 1872, that in these twenty-one years the

[1] Cf. Begg, 201.

[2] Cf. Report by James D. Edgar to Secretary of State for Canada, June 17, 1874, Canadian Sessional Papers, 1880, page 167.

people of British Columbia secured for themselves (1) a legislature with an elected chamber, and a chamber in which the members were nominated; (2) a municipal system on the English model for Victoria; (3) an educational system, free and unsectarian, over which no church — Protestant or Roman Catholic — was permitted any control; (4) a ruling by the legislative assembly which defeated an attempt to make the assembly bilingual, as was the legislature of Ontario and Quebec at this time, and as parliament at Ottawa has been since Confederation;[1] and (5) the right of the colony to make its own protective tariffs, to pay bounties to encourage local industries, and the liberty to apply to Washington for inclusion in the Elgin-Marcy reciprocity treaty of 1854–1866.

**Concessions to British Columbia at Confederation**

All this progress towards autonomy had been made before the negotiations which preceded the entry of British Columbia into Confederation were begun in 1869. As a result of these negotiations with the colonial office in London, and with Ottawa, British Columbia secured (1) the right to responsible government, to a status similar to that of the five provinces of eastern Canada; (2) liberty to abolish the bicameral system and substitute a single-chamber legislature, with all

[1] "A petition was brought forward, but being in French it was turned back, as the house cannot receive petitions written in any foreign language." "MS. Journals of Representative Assembly," August 24, 1858.

its members directly chosen by the electors;[1] (3) pledges from the government at Ottawa for the construction of a telegraph line and a railway from eastern Canada to the Pacific coast; (4) a representation in parliament of three senators and five members of the house of commons; and (5) complete control of the vast area of crown lands within the province.[2]

**Crown lands**

In respect to crown lands, British Columbia has an advantage over Manitoba, Saskatchewan, and Alberta, the provinces which were brought into Confederation by legislation originating and enacted at Ottawa. Crown lands in these three provinces remain under the control of the Dominion government — the only lands in provinces that are so controlled; for at Confederation Ontario, Quebec, Nova Scotia, New Brunswick, and Prince Edward Island, as was the case with British Columbia, retained control of their crown lands.

**Slow economic development of British Columbia**

From Confederation to 1914 the economic development of British Columbia, and its growth in population, were comparatively slow. Until 1907–1908 central Canada and the prairie prov-

[1] "The two-chamber system in these young countries is a superstition which grew out of the social conditions of England — a social condition which has no counterpart in her colonies." — *British Colonist*, October 19, 1871.

[2] "No wonder, then, that Governor Musgrave (Sir Anthony Musgrave, governor of British Columbia, 1869–1871) should have stated publicly that he was amazed at the concessions granted by the Canadian government." — Edward Blake, house of commons, Ottawa, March 28, 1871.

inces absorbed the great stream of immigration that flowed into the Dominion. The population of British Columbia in 1901 was only 178,000, including Chinamen and Indians.

**An era of railway building and increased immigration**

The Canadian Northern and the Grand Trunk Pacific railways were constructed across British Columbia, and their termini established at New Westminster, Vancouver, and Prince Rupert, in the years between 1907 and 1914. The great increase in the population of the prairie provinces, and this railway construction, aided the development of British Columbia. Lumber, coal, fish, and fruit were in increasing demand in the grain-growing provinces.

In these years, with improved railway communication and with prosperity all over the Dominion, British Columbia became increasingly the pleasure ground of Canada; and the first boom in its history — a boom at the height of which prices for real estate in Vancouver and Victoria mounted as high as prices for real estate in central London — continued until within a year of the war.

**A protectionist province**

The resources of British Columbia are lumber, coal, fish, and fruit. It exports all these products oversea. In the decade before the war it marketed lumber, fish, and fruit in the prairie provinces, and to some extent also in eastern Canada. British Columbia was a protectionist province in the pre-Confederation era. It was almost as protectionist as Ontario; and as a result of the

protection of its lumber and fruit-growing industries by the Dominion tariff, it is politically allied with central Canada and Nova Scotia and New Brunswick, and not with its neighbors immediately east of the Rocky Mountains — the agrarian, radical, and free-trade provinces of Alberta, Saskatchewan, and Manitoba.

## CHAPTER IV

### THE EVOLUTION OF THE DOMINION OF CANADA. 1783 TO 1840

A new era in British colonial history

THE loss of the American colonies ended one era in British colonial history and began a new one. It began the eventful and beneficent era that extended from 1783 to 1914 — an era parallel to, and greatly influenced by, the era of constitutional reform and progress towards democracy in Great Britain that extended from 1832 to the outbreak of the war.

British colonial possessions at the end of the American revolution

British colonies at the end of the American revolution were Canada, Newfoundland, the British West Indies, Australia and New Zealand, and a number of smaller possessions now in the crown colony division of the colonial office. India in 1783 was under the control of the East India Company. It was not transferred to the imperial government until 1858.

Canada in 1783

At the beginning of the new era there were no British settlements in either Australia or New Zealand. Canada included the vast territory under the rule of the Hudson Bay Company; Quebec, which then extended from the Detroit River to the western boundary of what is now the province of New Brunswick; Nova Scotia; and Prince Edward Island.

Population of the British North American provinces at the end of American revolution

The only white inhabitants of the country west of the Detroit River were the factors or agents and other employees of the Hudson Bay Company. In Quebec the white population did not exceed 113,000, of whom it was estimated 15,000 were of British origin. Nova Scotia, which then included New Brunswick and Prince Edward Island, had a population of 42,700.[1] In Newfoundland there were about 10,000 inhabitants. In all the oversea possessions of Great Britain at the end of the American revolution, the white population was not more than 170,000, more than half of whom were French-Canadians.

## I. *Influence of the American Revolution on British North America*

Impelling forces towards colonization in 1783

Enthusiasm for colonial possessions was damped by the loss of the American colonies; and a period of indifference and stagnation in regard to them might have begun in 1783 had it not been for two conditions which arose out of the war with the American colonies. One of these conditions, the convicts in England, who during the war

[1] For these statistics of population I am indebted to Mr. William Smith, secretary to the board of publications, public archives of Canada, Ottawa. The United Empire Loyalists, about 15,000, are not included in the population statistics for Canada. In those for Nova Scotia, the then recently arrived United Empire Loyalists, as well as disbanded troops, in all 28,000 men, women, and children, are included, as are also 400 Acadians.

had been temporarily detained in hulks awaiting penal transportation oversea, created a seriously embarrassing domestic problem. The second condition, the obligation of the British government to the Tories or United Empire Loyalists of the revolution, existed in the United States, in Canada, and in Nova Scotia; and after the peace of 1783 presented a problem that admitted of no delay in solution.

**Convict settlements in Australia**

Convicts had been sent out from England to the American colonies from as early as 1618 to 1776. They were coming at the rate of 400 or 500 a year in the decade which preceded the revolution. At the end of the war the British government determined to establish a convict settlement in Australia.

**The first addition to British colonies after the American revolution**

Seven hundred men and women, and boys and girls, condemned to transportation under the revoltingly brutal code of the eighteenth century, were sent to Port Jackson, the present site of Sydney, New South Wales, in 1787; and between then and 1830, 25,000 convicts were transported to New South Wales and Van Dieman's Land. The successful revolt of the American colonies thus led almost immediately to the colonization of Australia; for in 1788 New South Wales was formally proclaimed a British colony. It was under crown colony rule until 1855; and convicts were transported thither until 1841.[1]

[1] Cf. "The Oxford Survey of the British Empire — General Survey," VI, 152–153.

United Empire Loyalists as wards of the British government

A large immigration of United Empire Loyalists from the United States to the British North American provinces, and the Quebec act of 1791, were the developments in the solution of the second of these problems arising directly out of the war of 1776–1783. The United Empire Loyalists became the wards of the British government after the treaties of Versailles and Paris; and they remained the peculiar care of the British government for a decade after the revolution.

The British government arranged for and financed the transportation to Canada of all the United Empire Loyalists who wished to leave the United States. It offered them houses and lands in Nova Scotia and Quebec. It maintained many of them while they were reëstablishing themselves; and it also appointed a royal commission to award compensation to them for the material loss they had incurred in the American revolution. Most of the United Empire Loyalists were too poor to go to England. Canada seemed to them the most hopeful country of refuge.

Exodus to Canada of 1783–1784

The exodus to Canada — an exodus regarded by Canadian historians as comparable with the exodus of the Huguenots from France[1] — had begun before the treaty of peace was signed at Versailles. Nine transports sailed from New York for Annapolis Royal, Nova Scotia, in April, 1782. Another company of 7000 men, women, and children sailed from New York in April,

[1] Cf. Wallace, "The United Empire Loyalists," 3.

1783. Half of them went to what is now St. John, New Brunswick, and the other half to Port Roseway, Shelbourne County, Nova Scotia.

Movement to Nova Scotia

By the end of September, 1783, 18,000 of the loyalists had reached Nova Scotia; and as late as January, 1784, they were still arriving at St. John. Canadian historians compute that the total immigration of 1782–1783 into what are now the Maritime Provinces was about 35,000.[1]

Inroad into Quebec

There was an immigration of loyalists into Quebec as early as 1776. A stream of immigration began after the defeat of Burgoyne, at Saratoga, in 1777. By the end of that year 3000 loyalists were in the province — most of them in the neighborhood of Three Rivers, where "everything in reason was done to make the unfortunates comfortable."

After the treaty of peace had been concluded, the stream of immigration overland to Quebec greatly increased in volume. There were nearly 7000 United Empire Loyalists in the French province in the winter of 1783–1784; and the resources of the British government were strained to the utmost to provide for the necessities of the thousands who had thus flocked over the border line from the United States.[2]

At the time the exodus from the United States began, Quebec, Nova Scotia, and Prince Edward Island were the only organized provinces in Canada. In only two of them, Nova Scotia and

[1] Cf. Wallace, 63.

[2] Cf. Wallace, *ibid.*, 92–93.

**Political status of the British North American provinces in 1783–1784**

Prince Edward Island, was there organized civil government in which the colonists had any part through elected legislatures. In 1758 a legislative assembly had been established at Halifax, for the province of Nova Scotia; and there had come into being a legislature which today has the distinction of being the oldest law-making body in any of the British oversea dominions.[1]

Prince Edward Island had been created a separate colony in 1769, at a time when there were only about 150 families on the island;[2] and in 1773 a legislature, with an elected assembly, had been established at Charlottetown.

**Quebec constitution of 1774**

The wide but sparsely populated province of Quebec was administered at this time, and until 1791, under a constitution framed by the British government, and enacted by parliament at Westminster in 1774. Under this constitution, which had aroused much opposition from Chatham, Burke, Townshend, Dunning, and Barrie, and the Whigs as a party, all power was vested in the governor. There was a nominated legislative council, with extremely restricted powers — with less legislative power than is exercised today by Canadian municipal councils.[3]

It was a nominated council, because as North

[1] Cf. Burpee, "Sandford Fleming, Empire Builder," 271–275.

[2] Cf. Weaver, "A Canadian History," 125.

[3] Cf. Egerton, "Historical Geography of the British Colonies," Vol. V, pt. ii, 12, 13.

told the house of commons in 1774, there was at the time not a sufficient number of English people in Quebec to elect a legislature similar to that which had been established at Halifax. No provision was made in the Quebec constitution — a constitution which Chatham declared "tore up justice and every good principle by the roots" — for habeas corpus, or for the trial of civil cases by jury.[1]

**Position of the Roman Catholic church in Quebec**

The constitution recognized and continued the Roman Catholic church in Quebec as an established church, collecting tithes and church levies, and enforcing its own decrees as to marriage and the nullification of marriage. These were great advantages for the church, especially when they were compared with the constitutional disabilities which were the lot of the adherents of the Roman Catholic church in England, Ireland, and Scotland in the last quarter of the eighteenth century. They were advantages that partly account for the hostility of the church in Quebec to the American revolution; for it was realized by the clergy that all these valuable privileges enjoyed under the constitution of 1774 must come to an end if Quebec became a state in the American Union.

French-Canadians, and in particular the hierarchy of the church, from 1783 to 1791, had no complaint against the constitution of 1774. It was the large inflow of United Empire Loyalists

[1] Cf. W. R. Riddell, "The Constitution of Canada," 9–14.

**United Empire Loyalists demand a new constitution for Quebec**

that made a new constitution imperative. A government with an elected legislature had been established for New Brunswick — a province carved out of Nova Scotia — in 1784, almost before the stream of immigration of United Empire Loyalists to the St. John River country had come to an end.

Before the Quebec act of 1774 was passed by parliament, English colonists at Three Rivers, Quebec, and Montreal had urged the establishment of a legislative assembly. There were agitations for an assembly in 1769, and again in 1773; for military rule, such as existed from 1763 to 1774, never commended itself to colonists of British origin.

## II. *Upper and Lower Canada under the Constitutions of 1791*

**Potency of American influence in the years from 1784 to 1791**

For 130 years America has influenced political and economic thought in Canada; and this influence can be traced almost from the time the loyalists settled in Quebec. These newcomers of 1778–1784, joined as they soon were by many loyalists who had first emigrated to New Brunswick, soon began to demand such British institutions as they had been accustomed to in the American colonies.

In particular they desired (1) an elected legislative assembly; (2) trial by jury in civil cases; and (3) the division of Quebec into two provinces, an English and a French province. The larger

number of United Empire Loyalists had settled west of the Ottawa River, in what is today the province of Ontario, and they were desirous that this should be an English province.

**First colonial constitutions of the new era**

The first colonial constitution of the new era in British colonial history — the era of 1783–1914 — was that of 1784 for New Brunswick. The second constitution, much more elaborate, was that embodied in the Quebec act of 1791. This act created the political divisions of Upper and Lower Canada, which were continued under these names until the reunion of the two provinces in 1840.[1]

The constitutions of these provinces were similar. Each provided for (1) a governor and executive council; (2) a nominated legislative council; and (3) a popularly elected legislative assembly.

**Qualifications of electors**

The qualifications for electors of the legislative assembly, it was provided by the act of 1791, were to be the same as those in England at that time for electors of knights of the shire. In counties of Lower and Upper Canada, the electors were the owners of land of a rental value of forty shillings a year. There was at that time no uniformity in England as regarded the qualifications of parliamentary electors in the boroughs; but it was provided that electors in the three towns of Lower Canada, and the two of

[1] Cf. Riddell, "Constitution of Canada," Note XVI, 45.

Upper Canada, should be the owners of houses of a rental value of five pounds, or occupiers of houses of which the rent was not less than ten pounds a year.

**No exclusion of Roman Catholics**

In England and Scotland in 1791, and until 1829, the oath against transubstantiation excluded Roman Catholics from the exercise of the electoral franchise, and also from parliament. No such oath was imposed by the constitution of 1791 on electors in Upper and Lower Canada, or on members of the legislature.

**Wages for members of the legislatures**

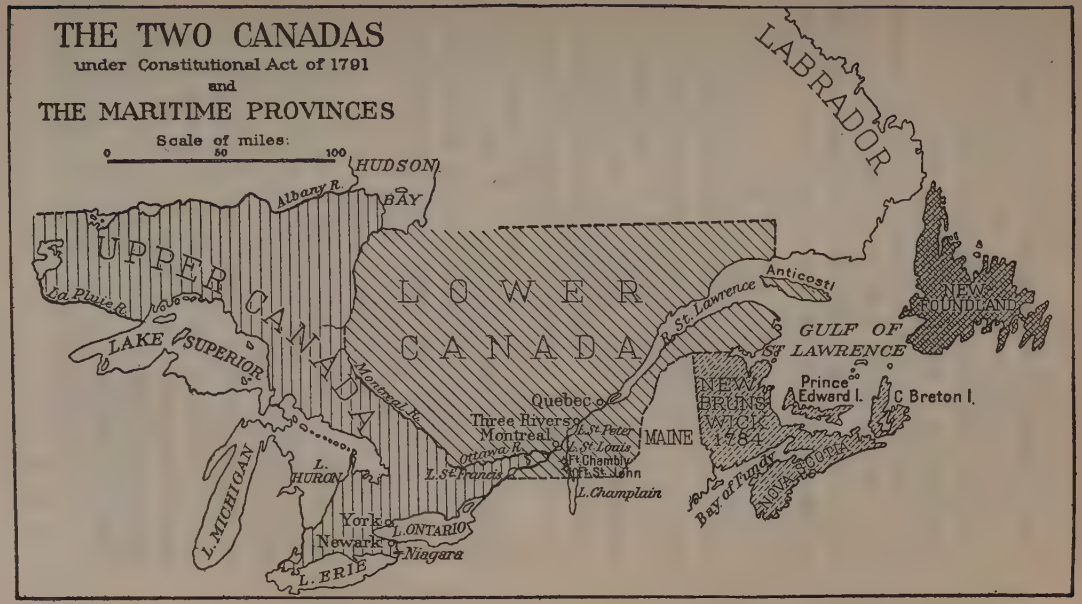
Wages had not been paid to members of the house of commons in England since the seventeenth century, and the system of paying the traveling expenses of members to and from parliament had been in desuetude for a much longer time. In Upper and Lower Canada wages and traveling expenses were for many years a charge on the electorates.

**No property qualifications for members**

Property qualifications were necessary for members of the house of commons at Westminster from 1710 to 1858.[1] There was no provision in the Quebec act for property qualifications for members of the legislative assembly; nor was there any provision that members should be resident in the constituencies from which they were elected.

Two departures in colonial constitutions characterized Pitt's Quebec act of 1791. The first

[1] Porritt, "The Unreformed House of Commons," I, 168–178.


THE TWO CANADAS
under Constitutional Act of 1791
and
THE MARITIME PROVINCES
Scale of miles:
0
50
100
HUDSON
BAY
Albany R.
UPPER
CANADA
LOWER
CANADA
LABRADOR
Anticosti
St. Lawrence R.
NEW
FOUNDLAND
GULF OF
ST LAWRENCE
Ld. Plaine R.
LAKE SUPERIOR
Montreal R.
Quebec
Three Rivers
Montreal
L. St. Peter
L. St. Louis
Ft. Chambly
Ft. St. John
L. Champlain
MAINE
NEW
BRUNS
WICK
1784
Prince
Edward I.
C. Breton I.
Bay of Fundy
NOVA
SCOTIA
Ottawa R.
L. St. Francis
L.
HURON
L. MICHIGAN
York
L. ONTARIO
Newark
Niagara
L. ERIE

Pitt's attempt to establish the English church in Canada and to create an aristocracy

was an attempt, long persisted in, to establish a connection between state and church, such as exists in England — to establish the Church of England as a state-supported church in Lower and Upper Canada. The second was an attempt, but nothing more than an attempt, to create a hereditary aristocracy and a governing class similar to that which then existed and still exists in England.

Clergy reserves

By the thirty-sixth section of the act of 1791, provision was made for reserving out of all grants of public lands an allotment for the support of a Protestant clergy. The allotment was to be equal in value to the seventh part of the lands granted. These allotments were known as the "clergy reserves." The rents and profits from them were to be applicable solely to the maintenance and support of a Protestant clergy. Provision was also made for the endowment of rectories out of the proceeds of the sale of public lands.

Sixty years of sectarian strife

In the first half of the nineteenth century these provisions in the act of 1791 were prolific of bitter political and sectarian strife in Upper Canada. The setting aside of the clergy lands in the settlement of townships caused great hardship to pioneer homesteaders. It retarded the development of Upper Canada. It divided the inhabitants both in town and country into two hostile camps. It was one of the contributing causes of the rebellion of 1837. It entailed much

trouble for the legislatures of Upper Canada, and of the United Provinces, and also for the colonial office and parliament at Westminster. The clergy reserves were persistently disturbing issues in Canadian politics until Pitt's attempt of 1791 was finally abandoned in 1854.[1]

A misfortune for the Episcopal church in Canada

From every point of view — economic, social, and political — Pitt's attempt to create an established church was unfortunate. It was especially unfortunate for the Episcopal church in Canada, which did not begin to make the appeal, of which it is eminently capable, until the great immigration from England of 1901–1914. By that time the disturbing controversies of 1820–1854 were forgotten, and the clergy reserves were a memory with only the elder generation of Canadians.[2]

Pitt's attempt to create a governing class

Pitt's plan for an aristocracy and a governing class was that the dignity of membership of the legislative councils was to be coupled with every title of honor conferred in Canada by the crown.[3] Pitt knew little of England outside London. He knew nothing of social conditions in a new coun-

[1] Cf. Stimson, "History of the Separation of Church and State in Canada," 27, 28.

[2] Cf. "The Days of the Glebe," *Globe*, Toronto, November 23, 1911.

[3] "There was a very curious provision in the act of 1791, which might have proved mischievous. This right was never exercised, and the Canadas fortunately escaped an hereditary second house of parliament." — Riddell, "Constitution of Canada," Note XVII, 46.

try like Canada[1] where there were hundreds of thousands of square miles of unoccupied land and consequently no renters and no rural laborers to support an aristocracy.[2]

**Family compacts of 1820–1840**

Canada since the American revolution was never long without a governing class. It first emerged from the United Empire Loyalists and the first generation of their descendants. These men formed oligarchies known at Toronto, Quebec, Halifax, and Fredericton, from 1820 to 1840, as the "Family Compacts." [3]

**Present-day governing class of the Dominion**

Since Confederation, and especially since 1879, the governing class of the Dominion has been composed of the bankers, the railway magnates, and the manufacturers who have their headquarters in Toronto and Montreal. Pitt's plan of 1791 for an aristocracy was no factor in the creation of either the governing class of 1820–1840 or in that of 1879–1914.

From as early as 1829 knighthoods were sometimes bestowed on judges of the higher courts.

[1] "The history of the thirteen colonies was full of evidence to show that an executive and an upper house independent of popular control in colonial constitutions were fruitful sources of conflict, disorder, and even of the paralysis of government. There was evidence also to show the impossibility of a colonial hereditary nobility."—George Burton Adams, "The Influence of the American Revolution on England's Government of her Colonies." Report of American Historical Association, 1896, Vol. I, 375–389.

[2] Cf. Boyd, "Sir George Etienne Cartier," 7.

[3] Cf. Egerton, Vol. V, pt. ii, 158–164.

Hereditary titles in Canada

The title of knight lapses with the death of its holder. Only baronetcies and peerages are hereditary; and the Quebec act of 1791 had been on the statute books for over sixty years, and had been superseded by the constitutional legislation of 1840, before there were in Canada men sufficiently wealthy to assume the family, social, and financial responsibilities of a hereditary title.[1]

It was 1854 before a baronetcy was conferred on a Canadian. It was 1891 before a Canadian received a peerage.[2] Long before the first baronetcy was conferred on a Canadian, Pitt's plan of 1791 had been forgotten; and today membership of the nominated senate at Ottawa, and of

[1] Only three peerages were bestowed on native-born Canadians between 1783 and 1917. Commenting on a peerage bestowed on a Montreal newspaper proprietor in February, 1917, N. W. Rowell, K. C., leader of the Liberal party in the province of Ontario, said: "I venture to think that in the free democracy of Canada we are not improving conditions by importing hereditary titles, passing from father to son. I hope it may be the last. I think when we are fighting the battle of democracy the world over the tendency will be in the Old Country to bring themselves into harmony with our spirit of democracy rather than for us transplanting part of the old feudal system into Canada." — *Gazette*, Montreal, February 16, 1917.

[2] Sir John Beverley Robinson, chief justice of Upper Canada, 1829–1863, was the first Canadian to receive a baronetcy. The first Canadian peer was a woman, Baroness Macdonald of Earnscliffe, widow of Sir John A. Macdonald, who at the time of his death in 1891 was premier of the Dominion.

the nominated legislative councils of Quebec and Nova Scotia — the only provinces in which legislative councils or upper houses survive — is not affected by baronetcies or peerages conferred on Canadians.

**Five British North American provinces of 1791–1851**

The Quebec act of 1791, by the division of Quebec into Lower and Upper Canada, increased the number of British North American provinces to five.[1] It remained at this number until 1851, when British Columbia was organized as a province.

**Political development of Nova Scotia and New Brunswick**

In the period from the incoming of the United Empire Loyalists to Confederation, Nova Scotia and New Brunswick each made some contribution to the constitutional development of the Dominion. In each, as in Upper Canada, there was a struggle, finally successful, against efforts to establish and maintain a privileged position for the church of England.[2] It was, moreover, the conference in Charlottetown, organized by the Maritime Provinces in 1864 for the purpose of establishing a legislative union of these three provinces, that brought Confederation of all the British North American provinces within the realm of practical politics in Canada and at Westminster.

[1] Cape Breton was organized as a separate province in 1784. It was reunited with Nova Scotia in 1820. As an island province it had no particular part in the constitutional history of Canada.

[2] Cf. Egerton, Vol. V, pt. ii, 156–159.

Struggle for a free press

Joseph Howe, the editor of the *Nova Scotian*, of Halifax, in 1835, was the defendant in a criminal proceeding for libel; and by his successful defense he achieved a victory which established freedom of the press in Nova Scotia. In New Brunswick in 1844, the printers of the *Loyalist*, Doak and Hill, fought to a successful issue in the law courts the claim of the legislature at Fredericton to interfere with the liberty of the press, and thereby rendered a service to all the British North American provinces as great as that rendered by the printers of the *Public Advertiser*, in England, in their memorable contest with the house of commons in 1772, over the reporting of the debates.[1]

Political achievements of Upper and Lower Canada from 1791 to Confederation

British Columbia, in the years from 1851, defeated an attempt to establish state-aided sectarian education, and also an attempt to make the legislature at Victoria bilingual. But generally speaking the constitutional advances from 1791 to Confederation, which beneficently affected all the British colonies which are now of the dominions, were achieved in Lower and Upper Canada.

Early legislatures

The first legislature of Upper Canada assembled at Niagara in September, 1792; but in 1794 York, now known as Toronto, became the capital. Quebec continued to be capital of the French province. The first legislature assembled

[1] Porritt, "A Century and a Half of English Journalism in Canada," 125–126, 133–134.

there in December, 1792. The governor-general was established in the citadel at Quebec. At Toronto there was a lieutenant-governor. Both these officials were appointed by the colonial office. Each new governor came out with detailed instructions, prepared by the colonial office, as to the policy which he was to follow.

Legislative councils

At each capital the governor-general or the lieutenant-governor chose the executive council; nominated the members of the legislative council; and had at his disposition all political patronage.[1] At Quebec the legislative council, according to the terms of the constitution, was to consist of not less than fifteen members. In Upper Canada it was to consist of not less than seven members. The legislature was to be called together once in every twelve months. The duration of the elected legislative assembly could not exceed four years.

## III. *The Legislatures of 1792–1837*

Procedure and usages of Westminster established in Canada

The earliest legislatures established in Canada, that at Halifax in 1758 and that at Fredericton in 1784, were organized for business as nearly as possible on the model of parliament at Westminster. The throne was placed in the chamber of the legislative council. The presiding officer of the legislative council, as in the house of lords, was appointed by the government. All

[1] Cf. Rules and Regulations for Her Majesty's Colonial Service, 19.

communications of the council with the assembly were carried, with the old world formalities, either by a master in chancery, or by black rod, whose official costume was patterned to the last detail on that of black rod at Westminster.

The speaker

In the legislative assemblies, at the meeting of a new legislature, the first business was the election of speaker. The procedure at this election was similar to that at the first meeting of a house of commons. The clerk of the house and the sergeant-at-arms were appointed by the government.

Speech from the throne

The formalities attending the opening of a session were the same as at Westminster. The speech was read from the throne by the governor, with the speaker, the sergeant-at-arms, and members of the assembly in attendance at the bar of the council chamber. Back in their own chamber, for the consideration of the speech from the throne, the first proceeding after the speech had been read by the speaker was to give a first reading, pro forma, to a bill, in order that the assembly might assert its independence of the crown, and exercise its right to attend to its own business before concerning itself with the business to which the sovereign had directed its attention.

Procedure in bills

The rules of debate and procedure on bills — introduction and first reading, second reading, committee stage, and third reading — were all as at Westminster.

**Epoch-making measures of the first legislature of Upper Canada**

The legislature of Upper Canada held its first session in 1792, at Niagara, in a log cabin with only one door and two windows.[1] Only eight members of the assembly were in attendance. But there was a speech from the throne [2] and the formalities and procedure were as at Westminster. This parliament in miniature, moreover, earned distinction in British colonial history by two of its proceedings.

**An anti-slavery law**

It declared British law with regard to property and civil rights to be in force in Upper Canada; and it passed an act [3] forbidding slavery in the province — another early instance of the influence of the United States, direct and indirect, on the political, economic, and social development of Canada. "It has the honor," writes one of the most sympathetic of its historians, "of being the first assembly in the British Empire to forbid the terrible wrong of slavery." [4]

An anti-slavery law was necessary if slavery were not to be established in Upper Canada; for at Westminster, in 1790, in the session immediately preceding that in which the second Quebec act was passed, a remarkable amendment [5] had

[1] Cf. Weaver, "A Canadian History," 145.

[2] John Graves Simcoe, Lieutenant-Governor, in his speech from the throne, at the closing of the session of 1792, assured the legislature that the constitution of the Province of Upper Canada was "the very image and transcript of that of Great Britain." — Riddell, "Constitution of Canada," Note XVIII, 47.

[3] 33 Geo. III, c. 7. [4] Weaver, 146. [5] 30 George III, c. 27.

been made to the old navigation code of Great Britain. It was an amendment which was regarded as a concession to the colonies in America. By virtue of it immigrants arriving in any of the British North American provinces were permitted to import their "negroes, household furniture, utensils of husbandry, and clothing" duty free.

French-Canadians and the pageantry of state

The legislature which met for the first time at Quebec, in December, 1792, was also organized for business after the model of parliament at Westminster; and in no province of the Dominion have the old-world formalities and ceremonial usages of parliament been more tenaciously adhered to than in Quebec. The French-Canadian has a natural love for the pageantry of state.

The urban and rural population of the French province in 1792 was much larger than that of Upper Canada. The cities — Quebec, Three Rivers, and Montreal — had an aggregate representation of ten members in the assembly. There was also a member for the town of Sorel.

Knights of the shire

The other members were knights of the shire, usually two from each of the counties into which Lower Canada was divided. These members were girt with sword at the time the sheriff declared their election, as was the custom in England until after 1885, when English counties lost their ancient parliamentary identity by partition into modern electoral divisions.

The total number of members of the Quebec

assembly in 1792 was fifty. Sixteen were of British origin. This proportion was never exceeded in the forty-five years from 1792 to the rebellion in 1837, which for thirty years made an end to a separate legislature in Quebec.

**French language**

The elective legislative assembly at Quebec, at its first session in 1792, made history by adopting the rule that the French and English languages should stand on a footing of complete equality in debate and in the introduction of bills. Today both languages are used in the Quebec legislature, which was reëstablished at Confederation in 1867. Both are also used in parliament at Ottawa, in debate, in the printing of bills and acts, and in government documents. This usage at Quebec and Ottawa can be traced back to the rule adopted by the legislative assembly in 1792.

**Restricted powers of the legislative assemblies**

The powers of the assembly, both at Quebec and at Toronto, were restricted. It had no power over appropriations until after the constitution of 1792 was amended in 1831. In these forty years, the assembly had no such power over appropriations as was exercised by the house of commons. Vote as it might, the assembly, at no time between 1792 and 1837, could influence the policy of the executive, if the executive was determined to pay no heed to the will of the majority of the assembly. Act as it would, the assembly could not dislodge the executive.

The assembly, when it initiated legislation, was always confronted by two powers at Quebec that

could override it, and in practice veto any bills that it might pass. These were (1) the legislative council, whose members had no constituents to whom they were responsible, only the governor who had appointed them having any power to call them to account; and (2) the governor, who had power to accept or reserve a bill which had passed both houses of the legislature, to reserve involving the transmission of the bill to London for approval by the colonial office. Moreover, even after a bill had run the gantlet of the assembly and the council, and after it had been accepted by the governor, it could be vetoed in London at any time within two years.

Three overriding powers

These were the days of the old commercial policy of the British Empire. England was under a protectionist system. The old navigation code, which had its beginnings in the days of the Cromwellian protectorate, was in force until 1847; and the aim of the commercial system was to build up British trade with little regard to any developing manufacturing industries in the colonies. None of the North American provinces was at liberty to frame its own fiscal system. No British colony enjoyed this freedom without restriction until 1846. None exercised it to the full until 1858.

Old commercial policy of Great Britain still in force

Lower and Upper Canada were consequently not permitted to impose other than revenue duties on manufactures from Great Britain. All imports from Great Britain must come into the provinces in British vessels; all colonial exports

to Great Britain had also to be carried in vessels on the British registry; and there were no free ports until 1822.

## IV. *The Dreary Period of the New Era in British Colonial History*

**Political corruption almost from the start**

It cannot be affirmed that the governments established at Toronto and Quebec in 1792–1793 worked well. There was jobbery and corruption from as early as 1795 — corruption in the collection of the revenue; and jobbery, with the connivance of the executive council at Quebec, in the allotment of public lands in Lower Canada.[1] Conditions became worse in the first decade of the nineteenth century;[2] and between 1812 and 1820 there began the most dreary period of the new era of British colonial history — the era from 1783 to 1914.

The dreary period lasted from 1812 to 1840; and, like the Quebec act of 1791, and the hamstrung legislative assemblies created by this act,[3]

[1] Cf. Egerton, Vol. V, pt. ii, 61–64. [2] Cf. Boyd, 34.

[3] "It is difficult to conceive what could have been their theory of government, who imagined that in any colony of England a body invested with the name and character of a representative assembly could be deprived of any of those powers which in the opinion of Englishmen are inherent in a popular legislature." — "Lord Durham's Report on the Affairs of British North America." Lucas, Vol. II, 76. "While the French-Canadians had been given representative parliamentary institutions, those institutions had been practically rendered inoperative. The people possessed the shadow without the substance of parliamentary government." — Boyd, 35.

it furnished abundant proof that British statesmen had not learned the lesson of 1776–1783, and were not disposed to learn it until forced to do so by the rebellions of 1837. Causes for the popular discontent existed in London as well as at Toronto and Quebec; for some petitions to the colonial office from Canada were ignored; others were long in bringing any results; and when concessions were made to the reformers of Upper and Lower Canada they were grudging and inadequate.

**British statesmen fail to learn the lesson of 1776–1783**

At Quebec power under the constitution of 1791, exercised through the executive and legislative councils, was monopolized by the commercial classes of the city and of Montreal. The men of the mercantile interests, most of them newcomers from Britain, were at this time the governing class of Lower Canada; and between the British and the French-Canadians there was keen and politically disturbing antagonism.

**Governing class of Lower Canada**

Political power at Toronto, exercised, as at Quebec, through the executive and legislative councils, usually with the sanction of the lieutenant-governor, was in the hands of the Tories of the Family Compact. Here again American example and tradition influenced Canadian political conditions. At this time — 1820–1837 — this American influence was adverse to popular government in Upper Canada; though in the long run, in the years from 1820 to 1837, it made indirectly for constitutional advance and the progress of democracy in Canada.

**Family compact in Upper Canada**

**Traditions of the American revolution**

The Tories of this period were mostly United Empire Loyalists, or descendants of loyalists, who, influenced by experiences in the American revolution, or by family tradition of these experiences, and by ill-feeling engendered by the invasion of Upper Canada by American troops during the war of 1812, cherished an assertive and aggressive hatred of democracy or republicanism in any shape or form.

**Bourbon Toryism of Upper Canada**

The dominant political cliques in Upper Canada at this time developed a cult of Toryism which has never been matched in any other part of the English-speaking world.[1] It was more Tory even than the American Toryism of 1776–1783. It was even more Bourbon and unyielding than the Toryism of England that was developed by the wars with France of 1793–1815; for it was inflamed by a struggle to hold on to a monopoly of all political opportunities, and by the strife attending a finally unsuccessful endeavor to establish a privileged political position for one division of the Christian church.

**Partisan governors**

Governors from 1792 to 1837 were notoriously partisan. Nearly all of them were, or had been, army officers. They were imbued with the English Toryism of the period. A new governor, as

[1] "A junto of oligarchs, who, however odious and tyrannical they might become, could not be punished or brought to account for their conduct." — John Charles Dent, "The Last Forty Years: Canada Since the Union of 1841," Vol. I, p. 19.

soon as he arrived, fell into the arms of the little group of officials in control, and could hardly escape the influence of the ruling clique. From the point of view of the elected legislative assembly, the governor was an opponent from the day he arrived at Quebec or Toronto. Governors openly interfered in elections, and always against the popular or democratic group in the legislative assembly.

**Pork-barrel appropriations**

The last governor of Upper Canada before the rebellion of 1837 — Francis Bond Head — in 1836 committed the province, which had then a population of only 350,000, to an expenditure of four million dollars on roads, bridges, and wharfs, chiefly to carry a general election. Head thereby began a practice which has continued and flourished up to the present day; for in the house of commons at Ottawa annual pork-barrel appropriations for post offices, customs houses, armories, wharfs, and dredging, with the bribery of constituencies and the local jobbery inherent in these appropiations, are as notorious as they are in congress at Washington.

**Patronage and plural office holders**

Offices and patronage at Quebec and Toronto were the monopoly of the Family Compact groups. Plural office holders were numerous. The legislative assemblies were crowded with office holders. Protestant and Roman Catholic bishops were of the legislative councils; and so were judges.

Bills originating in the legislative assemblies were rejected mechanically and wholesale by

"What's the constitution among friends?"

the legislative councils. If a member of the assembly was persona non grata to the ruling clique, he was ejected without regard to his individual rights or the rights of the constituency by which he had been elected. If the constituency ventured to petition for redress it was publicly snubbed by the governor, whose attitude can best be expressed in the words of an American boss, who exclaimed. "What's the constitution among friends?"

## V. *Crown Colony Rule at Its Worst*

Political issues of 1820–1837

The questions at issue in the decade which preceded the rebellions of 1837 were (1) the clergy reserves; (2) responsible government — the demand for an executive dependent upon a majority in the assembly, as was the constitutional usage in England; (3) full control by the assembly over taxation and appropriations; (4) an elected instead of a nominated legislative council; (5) the exclusion of judges from the legislature; (6) the system under which judges held office at the will of the government; and (7) the abolition of the system of plural office holding.

Governments that were oligarchic and corrupt

Cartier, the best-equipped statesman the French province ever gave to the Dominion, was, in his youth, associated with Papineau in the rebellion in Quebec. He always insisted that it was a rebellion, not against British authority, or against the British connection, but against the vicious system of government which existed in

Lower and Upper Canada for a generation before 1837.[1] It was a rebellion against governments at Quebec and Toronto that were Bourbon in outlook, oligarchic, and corrupt.

"Narrow-minded and tyrannical," is Egerton's characterization of the government at Toronto.[2] These governments bore down ruthlessly on all attempts at reform from outside; and the colonial office in London made no attempt either to check or to reform them.

**Crown colony rule of the era of indifference to oversea possessions**

From the American revolution until responsible government was conceded to all the British North American provinces in the forties of the nineteenth century, Quebec and Ontario, Nova Scotia, New Brunswick, and Prince Edward Island were under what would be described today as crown colony rule; and from 1820 to 1837 crown colony government was seen at its worst in Toronto and Quebec.[3]

It was crown colony rule of the era of indifference to colonial expansion, of the days when Wellington [4] was willing to turn over Ceylon to the East India Company; when George Cornewall Lewis [5] confessed that he was unable to see what possible advantage England derived from the possession of Canada; and Peel [6] was quite

[1] Cf. Boyd, 66. [2] Egerton, Vol. V, pt. ii, 127.

[3] Cf. Egerton, Vol. V, pt. ii, 68–78, 116–123, 124–132; Lucas, "Lord Durham's Report," Vol. I, 33–72; Vol. II, 7–185; Boyd, 27–44.

[4] 1828. [5] 1837. [6] 1841.

willing to see Canada separate from the British Empire.

New era of crown colony rule

It was, however, an era of crown colony rule that had nothing but the name in common with the new and beneficent era of crown colony government that began in the first decade of Queen Victoria's reign. The fundamentals of this modern crown colony rule are (1) that the principle of government must be determined by parliament at Westminster, as interpreter of the spirit of the British constitution; (2) policy determined by the colonial office, subject to the control of parliament; and (3) practice determined by the governor, sent out from London, subject to the control of the colonial office.[1]

[1] Bruce, "The Broad Stone of Empire," Vol. I, xix.

## CHAPTER V

### FROM THE REBELLION TO CONFEDERATION. 1837 TO 1867

PAPINEAU was the leader of the rebellion in the French province. William Lyon Mackenzie was the leader in the much less sanguinary rising in Upper Canada. There seems to have been only a sympathetic connection between the two revolts. But in each province there were adequate causes for the rebellion. Leaders of the rebellion

Both leaders were subject to fierce criticism and abuse by contemporary writers whose sympathies were with the ruling cliques at Quebec and Toronto. Each has also received some harsh criticism from some Canadian historians. Little importance now attaches to any of this criticism; for Papineau and Mackenzie between them started a new and beneficent era in British colonial policy.

Louis Joseph Papineau was born at Montreal in 1786. He became active in politics in 1809, and was elected to the legislative assembly in 1812. He was a man of attractive personality and commanding presence, and was an effective speaker in the assembly and on the platform. He was also a man of the highest character. French-Canadians were always in a majority in Papineau

the legislative assembly at Quebec; and Papineau was elected speaker in 1815, and held that office until the rebellion.

**Parnell of French Canada**

In these twenty-five years — 1812–1837 — Papineau was the political leader of the French-Canadians. The issue was whether the British minority or the French majority should rule at Quebec; and in these years the hold of Papineau on the French people was quite as great as the hold which either O'Connell or Parnell had on the Nationalist movement in Ireland in the nineteenth century.

**Papineau's political platform**

Before the rebellion there was nothing disloyal [1] or treasonable in Papineau's platform. What he desired was stated by him in a speech in the assembly in 1835, at a time when the assembly was harassing the government at Quebec by withholding supplies, and rendering it necessary that measures in relief should be passed by parliament at Westminster.

"The government I long for," said Papineau, in this speech of 1835, "is one composed of friends of legality, liberty, and justice — a government which would protect indiscriminately

[1] Private advices received in Montreal last night announced the death in action of Captain Talbot M. Papineau, M.C., of Princess Patricia's Canadian Light Infantry. In April, 1915, he was awarded the Military Cross for conspicuous gallantry at St. Eloi, on February 28. Captain Papineau was the great grandson of Louis Joseph Papineau. He was a Rhodes scholar at Oxford. — *Gazette*, Montreal, November 3, 1917.

every proper interest, and accord to all ranks and to each race of inhabitants equal rights and privileges. We demand for ourselves such political institutions as are in accordance with those of the rest of the Empire, and the age we live in."[1]

Mackenzie

William Lyon Mackenzie was a Scotsman, born at Dundee in 1795. He emigrated to Upper Canada in 1820. He was a man of some education and of good family. Like Papineau he understood the working of government by parliament and cabinet at Westminster. He was persistent and resourceful as an agitator. He was also impetuous, with a tinge of the theatrical in his make-up.

Immigrants into Canada from England and Scotland at this time had many of them come under the influence of the movement for parliamentary reform, and were permeated by its radicalism. Political conditions in Canada were even worse than political conditions in England before 1832. They aroused the indignation of these newcomers, whose influence, along with the effect of the success of parliamentary reform at Westminster, helped to give force and persistency to the movement for reform in Upper Canada.

Upper Canada Tories' dread of a free press

Mackenzie soon identified himself with this democratic movement. In 1824 he established at Toronto the *Colonial Advocate;* and attained province-wide fame in 1826 through a stupid and

[1] Boyd, 37.

ill-conceived riotous attack, made by the younger Tories, on his printing plant, during which his hand-press was thrown into Lake Ontario.

**Mackenzie in the legislature at Toronto**

In 1828 Mackenzie was elected to the assembly. There he made himself objectionable to the Tories by assailing the appointment of an Episcopalian chaplain to the assembly; by his opposition to the presence of an Episcopal and a Roman Catholic bishop in the legislative council; by assailing the executive for crowding the assembly with office holders; and by publishing the division lists in his newspaper.

**Publication of division lists**

For publishing the division lists, a practice which had been established in connection with the house of commons at Westminster since 1689, Mackenzie in 1832 was expelled from the assembly at Toronto. Four times he was reëlected. Then the assembly, without any constitutional warrant, declared him incapable of serving as a member; and on presenting himself he was ejected by the sergeant-at-arms.

**A partisan governor**

His constituents presented a petition to Head, who was then governor. The only answer to this petition, which was presented to the governor in person, was, "I have received your petition"; and no redress was forthcoming at Toronto either for Mackenzie or for his constituents.

A landmark in the constitutional history of Canada of interest to all the dominions was set up by Mackenzie during his first session in the legislative assembly. He drafted in 1828 a

statement of the grievances of the colonists of Upper Canada, which was forwarded by the reformers in the assembly to the colonial office in London; and it would seem that in this manifesto the first claim for responsible government for any British colony was made. Papineau, in his speech of 1835, pressed the claim; but it was one to which seven years before 1835 the reformers in Upper Canada had directed their efforts.

First demand for responsible government

## I. *The Rebellions in Lower and Upper Canada*

The rebellion in Lower Canada broke out on November 6, 1837. The rising in Upper Canada began at Toronto on December 4. The immediate cause in Lower Canada developed out of the popular agitation, led by Papineau, against a resolution passed by Parliament at Westminster, providing for the payment of salaries of judges in Lower Canada, after the legislative assembly at Quebec had persistently refused to vote supplies for these payments.

Interference by parliament at Westminster

Meetings to protest against this legislation by the British parliament were prohibited by Gosford, the governor-general, in June. But they went on, nevertheless, from June to October. The crisis came in November. There was a riot in Montreal on the 6th. Seven of the leaders were arrested. These men were taken out of the custody of the military; and the fighting began when the soldiers attempted to arrest one

Gosford prohibits protest meetings

of Papineau's associates at St. Denis. There the rebels fortified a stone barn. In attempting to take the barn, Colonel Gore, who was in command of the military, lost six men killed, and ten were wounded.

**Three hundred rebels killed**

Between the 6th and the 22d of November there was fighting at St. Charles, St. Eustache, and Benoit. Two thousand soldiers were engaged. The fatalities were mostly on the side of the rebels. Three hundred of Papineau's followers lost their lives. Papineau fled to the United States, and was a refugee there until 1845.[1]

**Fiasco at Toronto**

The rising at Toronto involved no great loss of life. Mackenzie's plan was to seize government house. His followers, who numbered at most not more than 750 men, assembled at Montgomery's tavern on the outskirts of the town. They were quickly dispersed by 1200 volunteers. Five of the rebels lost their lives.

**Mackenzie in exile**

Mackenzie fled to Navy Island in the Niagara River. There he issued a proclamation; set up a provisional government; printed paper money — and otherwise introduced a touch of burlesque into the rising. He was soon dislodged from Navy Island, and fled to the state of New York, where, after serving a term in prison for violation of the neutrality laws of the United States, he was an exile until a general amnesty act was passed by the legislature of the united provinces of Quebec and Ontario in 1849.

[1] Cf. Boyd, 45–76.

A rebellion that effected a revolution

There was never any prospect of military success for rebellion in either Upper or Lower Canada. But if a revolution is a rebellion that succeeds, the rebellion of 1837 was a revolution. In its way it was as successful as the American revolution. It was the only time after 1783 that British troops were in action against armed white British subjects in any of the British colonies; and all that is beneficent in the modern era of British colonial government dates from the Papineau and Mackenzie rebellions, and the epoch-making mission of the Earl of Durham to Canada, by which the rebellions were immediately followed.

William IV's conception of colonial government

The Melbourne administration of 1835–1841 was in power in England at the time of the rebellions. William IV died in June, 1837. The death of the king gave the administration a freer hand in coping with the serious problems of Canada.

William IV's conception of colonies, and of the relation of the sovereign to them, was very similar to that of George III. When Lord Gosford was sent out to Quebec as governor-general in 1835, the king told him that he would never consent to the establishment of an elective legislative council. The king held that control of the legislative council, by nomination, was one of the prerogatives of the crown. "It was," he said, "a safeguard for the preservation of the wise and happy connection between the mother

country and the colonies, which it was both his duty and his inclination to maintain."

**Queen Victoria and the new era in British colonial policy**

The development of the British cabinet had not reached its present stage in 1835. William IV was the last sovereign to assume an attitude of this kind towards his ministers; and for the United Kingdom, as well as for the colonies, an era of less monarchical rule began with the advent of Queen Victoria.

## II. *Durham's Mission and the Durham Report*

**Legislation at Westminster**

The rebellions necessitated immediate legislation at Westminster. Accordingly on January 16, 1838, a bill was introduced in the house of commons suspending the constitution of Lower Canada for four years, and authorizing Durham, the new governor-general, in concert with an executive council of five members, to frame ordinances for the province. Durham was further authorized to investigate and report on conditions in all the British North American provinces, and his commission constituted him governor-general of all the provinces except Newfoundland.

**Character of Durham**

Durham was in his forty-sixth year when he was intrusted with this mission to Canada. He was a man of great wealth, derived largely from coal mines in the county of Durham; and he was son-in-law to Grey, the Whig premier of reform bill fame. He was one of the most aggressive members of the cabinet during the crises over the reform bill of 1830–1832; always ready

to force the struggle with William IV; always ready to fight for the bill either in the cabinet or in parliament; and the politically courageous part Durham had in framing and carrying the reform bill would have given him a conspicuous place in British history even if his achievements of 1830–1832 had not been overshadowed by his contribution of 1838 to the inauguration of the new era in British colonial policy.

**Durham's report: the most widely read state paper of the nineteenth century**

Durham's famous report has been more frequently reprinted, more frequently edited and annotated, and more widely read over the English-speaking world than any other British state paper of the nineteenth century.[1] He was in Canada only from May 29 to November 1, 1838. He resigned and returned to England,[2] because the Melbourne government, holding that he had exceeded his powers, disallowed an ordinance of June 28, 1838, banishing eight rebels to Bermuda. He was succeeded in August, 1839, by Poulett Thomson, afterwards Lord Sydenham, who as a colonial governor ranks second only to Durham in the history of the establishment of responsible government in the dominions.

Condemnation of the entire system of government at Quebec and Toronto was the burden of Durham's report. It substantiated nearly every allegation of the reformers in Canada and of the

[1] The authoritative edition is edited, with an introduction, by Sir Charles P. Lucas, Clarendon Press, Oxford, 1912.

[2] He died July 28, 1840.

**Durham's condemnation of the governments at Quebec and Toronto**

radicals who had supported them in parliament at Westminster. It demonstrated that oligarchies had ruled in both provinces; that there was no system of municipal government — that in this respect Lower and Upper Canada compared badly with the New England states; that there was no system of education; that justice was badly administered; and that the management of crown lands was characterized by jobbery and fraud.

**Share of the colonial office in misrule in Upper and Lower Canada**

The colonial office in London was also condemned; for Durham recalled that there were eight colonial secretaries from 1827 to 1837, and that the policy of each secretary had been more or less different from that of his predecessor. In a word, Durham stigmatized the whole system as vicious. He rejoiced that it had broken down.

**Friction between Upper and Lower Canada**

In Lower Canada much of the trouble was due to race antagonism. In addition there had been friction between Upper and Lower Canada arising out of a common use of the St. Lawrence; for Upper Canada was entirely dependent on the tidewater ports of the lower province. This friction had been so serious that at one time there was a plan to create a third province out of the Island of Montreal. In Montreal the English were in control; and such a plan would have ended the dependence of Upper Canada on ports that were under the control of French-Canadians.

American influence again

American influence on political conditions in Canada in the years from 1783 to 1837 has already been noted. More evidence of this influence is contained in Durham's report, and in his recommendations as to the system of government that should be adopted at the great crisis of 1837–1840.

An autocratic government suggested for Quebec

The suggestion was put forward, in plans proposed to Durham for the government of Lower Canada, that as a permanent or as a temporary and intermediate scheme, the government of the French province should be constituted on an entirely despotic footing, or on one that would vest it entirely in the hands of the British minority.

Durham's condemnation of this suggestion

"It is proposed," wrote Durham, "either to place the legislative authority in a governor, with a council formed of the heads of the British party, or to contrive some scheme of representation by which a minority, with the form of representation, is to deprive the majority of all voice in the management of its own affairs." [1]

"Canada's only neighbor"

The adoption of such a plan would have meant the indefinite continuation of the dreary period of colonial history of 1791–1837. But at this, the greatest crisis in British colonial history between 1783 and the great war, the influence of what the late Sir Richard Cartwright, for forty-five years a member of parliament at Ottawa, liked to describe as "Canada's only neighbor," again made itself felt on the destinies of what is now the greatest British oversea dominion.

[1] Cf. Lucas, II, 296–297.

**Influence of popular opinion in the United States**

It was an influence not of the government at Washington, but of the people of the United States, indirectly rather than directly exercised. It turned the scale with Durham. Durham's report turned the scale with the Melbourne government, and through the government with parliament at Westminster.

Durham thus described American influence, and how, in his opinion, it would affect Canada, if a despotic government were established at Quebec:

> The maintenance of an absolute form of government on any part of the American continent can never continue for any long time without exciting a general feeling in the United States against a power of which the existence is secured by means so odious to the people; and as I rate the preservation of the present general sympathy of the United States with the policy of our government in Lower Canada as a matter of the greatest importance, I should be sorry that the feeling should be changed for one which, if prevalent among the people, must extend over the surrounding provinces. The influence of such an opinion would not only act very strongly on the entire French population, and keep up among them a sense of injury and a determination of resistance to the government, but would lead to just as great discontent among the English.[1]

**Legislative union of Upper and Lower Canada urged by Durham**

The experience in Canada of a government not responsible to the people did not, in Durham's opinion, justify a belief that an absolute government in Lower Canada would be well administered. Durham was confident that the great

[1] Lucas, II, 297.

reforms in the institutions of the French province, which must be made before it could be a well-ordered and flourishing community, could be effected by no legislature which did not represent a great mass of public opinion. He was convinced that tranquillity could only be restored by subjecting Lower Canada "to the vigorous rule of an English majority, and that the only efficacious government would be that formed by a legislative union." [1]

Population of Upper and Lower Canada in 1838

At this time the estimated population of Upper Canada was 400,000. The number of English and Scottish people in Lower Canada was 150,000, and of French 450,000. If these estimates were correct, Durham believed that the union of the provinces would not only give a clear English majority, but one which would be increased every year by immigration from the United Kingdom.

Durham and the national aspirations of French Canadians

Durham was convinced, moreover, that the French, when once placed in a minority by the legitimate course of events, and the working of natural causes, "would abandon their vain hopes of nationality"; for he held that the union of Scotland with England in 1707, and the union of Ireland with Great Britain in 1800, taught "us how effectually the strong arm of a popular legislature would compel the obedience of a refractory population,[2] and the hopelessness of success

[1] Cf. Lucas, II, 307.

[2] Sir Charles Lucas notes that the history of Ireland from 1838 has hardly borne this out. Lucas, II, 308, footnote.

would gradually subdue the existing animosities, and incline the French-Canadian population to acquiesce in their new state of political existence." [1]

**Advantages of union to Upper Canada**

Union of the provinces, according to Durham, would result in two advantages. The British would control the new legislative assembly, as well as the legislative council; and union would end for Upper Canada, for which there was no suggestion of despotic government, the disputes as to the division, or amount of revenue, collected on imports into Canada at the St. Lawrence ports.

Lower Canada in the twenties and thirties of last century, as in the second decade of the twentieth, was the most self-sustaining area of the North American continent. French-Canadians imported little from the United Kingdom or from the United States. The needs of the British population in Upper Canada were greater and more varied. Their importations from the United Kingdom — clothing and other manufactured articles — were comparatively large.

**Import duties for revenue only**

All import duties levied by the legislatures of the British North American provinces until 1858 were for revenue only, and most of the revenues of the provinces were raised by these duties. The disputes between Upper and Lower Canada were as to the division of the duties.

Realizing that most of the duties were finally paid by the people of Upper Canada, this province was long aggrieved by the division of the

[1] Lucas, II, 308.

money collected by the customs officers of Lower Canada at Montreal and Quebec. Durham believed that with union the surplus revenue of Lower Canada would meet the deficiency of Upper Canada, and that Lower Canada would be placed "beyond the possibility of locally jobbing the surplus revenue." Upper Canada would, by union, also secure access to the sea; and Lower Canada would pay its fair share to the cost of the canals in Upper Canada, which, as Durham rightly insisted, were as much the concern of one province as of the other.

Influence of union on parliament at Westminster

The saving of public money which would be effected by the union of the governmental establishments would, Durham contended, supply the means of conducting the general government on a more efficient scale. "And," he added, in summing up the advantages of union, "responsibility of the executive would be secured by the increased weight which the representative body of the United Provinces would bring to bear on the imperial government and legislature."

Where Durham's assumptions were wrong; where they were right

Durham was wrong in the assumption that with the union of the provinces race antagonism and the struggle of the French-Canadians for nationality would gradually disappear. It was race antagonism, and the deadlocks which ensued from it, that forced on Confederation in 1864–1867. He was wrong also in assuming that economy, coupled with greater efficiency, would result from union. But he was absolutely right when

he assumed that the increased weight of the representative body would have influence with the imperial government; for it was the legislative assembly of the United Provinces that in the years from 1841 to 1849 forced the concession of responsible government — an executive dependent on a majority in the assembly — and again it was the assembly that in 1858–1859 insisted on the concession by Great Britain of liberty to the United Provinces to frame their own customs tariff, regardless of British manufacturing interests.

## III. *The Legislative Union of 1840*

**Constitutions of 1840–1867**

The Melbourne government acted on Durham's recommendation that Upper and Lower Canada should be united in one province. By the act of 1840, which established this union, there was created the constitution of 1840–1867. The bill was introduced in the house of commons by Lord John Russell. Neither in the commons, nor in the lords, was the discussion in general from the Whig or Conservative standpoints.

**A measure supported by both political parties at Westminster**

In spite of appeals from the Duke of Wellington,[1] only eight or nine Conservatives in the house of commons opposed the bill. Gladstone was still a Conservative in 1840; but he and Stanley and Peel, also Conservatives, were as anxious as Russell and his colleagues of the Whig administration that Canada should have a better

[1] Cf. Parker, "Sir Robert Peel," III, 379.

form of government than experience had demonstrated was possible under the constitution of 1791.

Conviction that the colonies would demand independence

The debates at Westminster were characterized by frequent expressions of the conviction that Great Britain could not long hold colonies with large white populations; and that Canada would break away when it was ready. Peel and Gladstone gave expression to these convictions. They were anxious, in the meantime, that Great Britain should do all that she could to establish a beneficent political civilization for the colonies.

The clergy reserves — a free hand for the new legislature

Further legislation for Canada was enacted in the session of 1840. A bill was passed empowering the legislature of the United Provinces to deal with the clergy reserves without interference from parliament. The plan was to divide the money received from the sale of the clergy reserves among the churches. The Episcopal church was to have the largest share; next was to be the Presbyterian portion; and smaller shares were to be assigned to the Methodist and other churches.

The clergy reserves from 1840 to 1854

This plan was adopted at once by the legislature of the United Provinces. It was in operation until 1854, when the clergy reserves were secularized. From 1841 to 1854 each church was free to expend the money it received at will, whether for the support of its clergy, the erection of places of worship, or for education.[1]

[1] Cf. Stimson, "History of the Separation of Church and State in Canada," 56–57.

**Legislature of the United Provinces**

The new constitution for the United Provinces that was enacted by parliament in 1840 provided (1) for a legislative council, nominated like the legislative councils at Quebec and Toronto, the members to hold office for life; and (2) for a legislative assembly elected on the same franchises as the assemblies of 1792–1840. For membership of these assemblies there had been no property qualification; for membership of the new legislature ownership of landed property of the value of £500 was a prerequisite.

**Urban development in Upper Canada from 1791 to 1840**

In the period from 1791 to 1840 eight towns had come into existence in Upper Canada. These were Toronto, Kingston, Hamilton, Brockville, Cornwall, Niagara, London, and Bytown — known since 1854 as Ottawa. With the exception of London and Ottawa, all these towns — now cities — are on Lake Ontario, a fact which indicates the importance of water transport in the early settlement of Canada. By the imperial act of 1840 two members were assigned to Toronto, and one each to the other seven towns.

**Urban constituencies in the new representative system**

Urban development in Lower Canada had proceeded more slowly than in Upper Canada. The French-Canadian is usually not a town dweller. Sherbrooke, in the eastern counties of Lower Canada, — counties that were settled between 1800 and 1840 chiefly by immigrants from the United Kingdom, — was the only new town sufficiently important in 1840 for separate representation in the assembly.

Sherbrooke was assigned one member. Two each were allotted to Montreal and Quebec, and one to Three Rivers. There were, therefore, in the new legislature fifteen representatives of urban constituencies.

Legislative council

To each province were allotted ten members of the legislative council. To each province also there were allotted forty-two members of the assembly — a provision that for ten years was a distinct advantage to Upper Canada, and a grievance with Lower Canada. In the fifties and sixties, when immigration had given Upper Canada a population larger than that of the French province, the position was reversed; and out of this reversal of the position at the time of the union of the provinces there was developed the agitation in Upper Canada for representation by population — one of the most vigorous and persistent agitations of the decade preceding Confederation.[1]

French Canada secures the upper hand in the legislative assembly

There was a provision in the constitution that the legislature might add to the number of members of the assembly. In 1853 the total number of members was increased from 84 to 130. The census of 1852 had shown that the population of Upper Canada was then 60,000 in excess of that of Lower Canada. But 65 members were apportioned to each province; and the French-Canadians had so easily the upper hand in the legislative assembly that the reform demanded

[1] Cf. Clarke, "Sixty Years in Upper Canada," 65.

by Upper Canada could not be obtained, and was not obtained until the principle of representation according to population was embodied in the act of Confederation.[1]

**Preëminence assigned to the English language**

Bills introduced into the legislature, and all official documents for record, it was enacted in the organic law of 1840, must be in the English language; but this provision was not to prevent copies being printed in French. As in the legislature at Quebec from 1792 to the rebellion, both English and French were used in debate in the legislature of the United Provinces; and from 1841 to the present day there has never been a time when French-Canadian members, either of the legislature of the United Provinces, or of the house of commons or senate at Ottawa, have not freely exercised this privilege of speaking in French in debate.

**Municipal government**

Provision was also made in the new constitution for meeting a need to which Durham had called attention when he noted the efficiency of municipal government in the United States, and the fact that in the United States even where municipal institutions were "lacking or imperfect, the energy and self-governing habits of the Anglo-Saxon population enable it to combine whenever a necessity arises." [2]

There was a clause in the act making it mandatory on the government of the United Provinces to constitute townships, and organize municipal

[1] Cf. Boyd, 143–147. [2] Lucas, II, 112–113.

government. A temporary measure for this purpose was passed by the legislature in 1841. A municipal code was framed for Lower Canada in 1845; and in 1849 a municipal code was enacted for Upper Canada, "which at last gave to the people the system of self-government which they now enjoy, and established the principle that local control of financial matters of local interest should be vested in the taxpayers." [1]

**Municipal codes for Lower and Upper Canada**

Until 1846, when Great Britain adopted free trade and abandoned her old commercial policy, duties levied on imports into all British colonies were determined by parliament at Westminster, and these duties were fixed with a view to affording British manufacturers a monopoly of all colonial markets. Accordingly under the constitution of 1840 the imperial government again reserved the power of imposing duties for the regulation of commerce. The revenues from these customs duties were to flow into the treasury of the United Provinces; and, subject to two conditions, the legislature was conceded control of the raising of all other revenues and the spending of all revenues.

**Regulation of commerce reserved for the British parliament**

These conditions were: (1) the provision of a civil list for the salaries of the governor-general

**Other reservations**

[1] Clarke, 95–96. Clarke, who was clerk of the legislature of Ontario from 1891 to 1907, in writing of the municipal code of 1849 and its amendments — page 96 — says, "It has given us a system far excelling that adopted in many states of the American Union."

and the judges; and (2) the provision of a consolidated fund for the salaries of provincial officials. Over the civil list that determines the salaries of the governor-general and the judges, and over the consolidated fund, parliament at Westminster retained control until 1847.

**Popular demands ignored in framing the new constitution**

The only bills reserved — bills to which the governor-general could not give the royal assent — were bills affecting religion and crown lands. Three demands of the long agitation in Lower and Upper Canada which had preceded the rebellion of 1837 were not conceded in the act of 1840: the legislative council was not made elective; judges and civil servants were not excluded from the legislature; and there was not a word in the act concerning the epoch-making claim, urged in Upper Canada as far back as 1828, for responsible government, a claim that had been emphasized in Papineau's platform of 1835.

**Two of these demands subsequently conceded**

It was 1853 before the constitution of 1840 was amended to exclude judges and civil servants from the assembly and the legislative council; and it was 1856 before an amending act was passed at Westminster admitting elected members to the legislative council. Elected members were of the council from 1856 until Confederation.

At the time the constitution of 1840 was before the house of commons, Lord John Russell, who was in charge of the bill, held tenaciously to

nomination for legislative councils. He was sure that the connection between the colonies and Great Britain would be in danger if there were elected legislative councils. But like other fears entertained at Westminster between 1783 and 1887 in regard to the colonies, there was no ground for this apprehension. Seven of the nine provincial legislatures of Canada today have no second chamber; and even the most ardent friends of the senate at Ottawa, if it has any such friends,[1] never advance the claim that the nominated senate is of any peculiar value in maintaining the imperial connection.

**Nominated legislative councils as links of empire**

## IV. *The Struggle for Responsible Government*

The claim for responsible government was conceded in 1841. The concession was withdrawn in 1843, but was completely and finally conceded in 1849. Its first and its final concessions were due, not to anything actually stated in the act of 1840, although that memorable act was the key to all the constitutional freedom now enjoyed by all the dominions. They were due to the statesmanship and democratic spirit of Sydenham, Bagot, and Elgin, three of the four governors-general who were in office from 1839 to 1850, and also, it is important to note, to the new policy literally forced on Downing Street by the Liberals of Upper and Lower Canada, who were

**Fortunes of the movement from 1841 to 1849**

[1] Cf. *The Round Table*, London, III, December, 1912, to September, 1913, 719–722.

in control of the legislative assembly of the United Provinces, during the first decade of the constitution of 1840.

**Sydenham's concessions to the demand**

Durham was succeeded by Sydenham in November, 1839. The new governor-general recognized the justice of the long-sustained demand for responsible government, and the wisdom of prompt concession. Under the old régime at Toronto and Quebec, the executive councils were generally composed of men in political opposition to the majority of the legislative assembly; and the governor, at each of these capitals, usually took extreme care to have every act of his own go forth on the responsibility of the executive council.[1]

**Cabinet government as at Westminster**

In the first session of the legislature of the United Provinces — a session held at Toronto in 1841 — Sydenham chose the executive council from members of the legislature who were of the political party in the majority in the assembly. By so doing he established cabinet government in Canada on the same basis as at Westminster. Sydenham's conception of the functions and duties of a governor of a colony having representative institutions was so novel that his action forms a landmark in British colonial history, scarcely second in importance to Durham's famous report.

**Principles on which Sydenham acted**

The principles of Sydenham's policy were (1) that as governor-general — as the representative of the crown in Canada — he was himself

[1] Cf. Scrope, "Lord Sydenham," 143.

responsible to the imperial authorities alone; and (2) that it was his duty so to form and conduct the government as to insure harmony with the majority of the elected legislative assembly.[1]

A merchant's success in empire politics

Sydenham died at Kingston, Ontario's most beautiful lakeside city, in September, 1841. He was only forty-two. He was not of the aristocratic governing class of England — not of the territorial aristocracy from which at this time the governing class was almost exclusively drawn. He was not a peer until 1840.

Men of the commercial class in imperial politics

In his earlier life Sydenham had been a merchant in a large way of business in the city of London. He has the distinction of being the first man of the commercial class, after the reform of the house of commons in 1832, to attain front rank in imperial politics; and he had no successor from the commercial or manufacturing class in the wide field of imperial politics until Chamberlain became colonial secretary in 1895. No other man of the capitalistic or commercial classes was appointed to a colonial governorship until Lord Brassey, a great railway contractor, who was created a peer, was appointed governor of Victoria in 1895.

Queen Victoria objected to men of the commercial class as colonial governors. In 1856 the Queen vetoed a suggestion by Labouchere, secretary for the colonies, in Palmerston's administration, that James Wilson, a manufacturer, and

[1] Cf. Scrope, 273.

**Queen Victoria's objections to men of commerce as colonial governors**

a financier of national fame, who was also founder of the *Economist*, should be appointed governor of Victoria, Australia. It was then a colony with representative institutions, but not in the enjoyment of responsible government. Its population was much less than that of many of the parishes of London in 1856.

"Mr. Wilson," the Queen wrote, "would not be at all a proper person to be governor of so large and important a colony as Victoria. It ought to be a man of higher position and standing, and who could represent his sovereign adequately." [1]

**Men of the British governing class as colonial governors**

The ideas expressed in the Queen's letter of 1856 as to men who were unfit for colonial governorships have, as a rule, held good at the colonial office from that day to the present time. Governorships in the dominions — offices ordinarily only of dignity, form, and pageantry, under the system of responsible government — have gone almost exclusively to men of the territorial governing class; and as a rule these offices, which offer no career, go to men of second or third rank in political life at Westminster.[2]

[1] Benson and Esher, "Letters of Queen Victoria," III, 24–27.

[2] Munro-Ferguson, who in 1886 was elected to the house of commons from Leith Burghs (Scotland), was in 1914 appointed governor-general of the Commonwealth of Australia. "They were now," he said, at a farewell meeting of his constituents at Leith, on February 10, 1914, "giving their late member a first-class political funeral." — *Herald*, Glasgow, February 11, 1914.

Sydenham had no experience of colonial administration before he arrived at Montreal in 1839. He was of a different type and mental caliber from the governors-general and lieutenant-governors who were at Quebec or Toronto from 1791 to the rebellion. There were of these governors several with political ability; but most of them were military men who needed a salaried job. Sydenham was one of three men — Durham, Sydenham, and Elgin — whose genius for government, and whose courage, vision, and popular sympathies carried Canada successfully through the great crisis of 1837–1850, and made possible the self-governing dominions and their loyalty to Great Britain.

**Sydenham a new type of colonial governor**

"Lord Durham," writes Sir Charles Lucas, England's foremost authority on British colonial history, "preached his gospel and died. Lord Sydenham, before he too died, set the political machine running in the right direction. Then the machine went on, the way widened, the views widened. Men grew up to contemplate a nation, and after contemplating to create it. Lord Durham's report gave the inspiration. Sydenham, with his combination of strong popular sympathies and great business capacity, showed how to begin putting principles into practice."

**Achievements of Durham and Sydenham**

"The history of Canada," continues Lucas, who was under-secretary at the colonial office from 1897 to 1911, and next in importance to the secretary for the colonies, "has been on the whole

**Lucas's tribute to their work**

a history of singular good fortune; and not the least part of this good fortune has been that Lord Durham should have been forthcoming at the particular time when he went to Canada; and that Lord Sydenham should have been available as his successor. It would be difficult to find in the chronicles of any country two men who, within little more than three years in all, did so much to help the coming time." [1]

**Bagot continues Sydenham's policy**

Sir Charles Bagot, a member of Lincoln's Inn, who had been of the house of commons, and who had served as parliamentary under-secretary for foreign affairs with Canning as his chief, and who had been minister at Washington, and ambassador at Petrograd and The Hague, succeeded Sydenham as governor-general in 1841. He was appointed by the Peel government — a Conservative administration that had come into power in September, 1841.

Bagot, who in British politics was a Tory, continued Sydenham's policy. At a crisis in Quebec, he formed his government "in unison with the known will of the majority of the popular assembly." [2] Bagot, in fact, was so situated that he had to adopt Sydenham's principles of government.[3] Acting on the broad principle that the constitutional majority had the right to

[1] Lucas, "Durham Report," I, 301–302.

[2] Parker, "Sir Robert Peel," III, 382.

[3] Cf. speech by Roebuck, house of commons, May 30, 1842.

rule under the constitution, he appointed Louis Hyppolite Lafontaine to the executive council, in association with Robert Baldwin, the leader of the Liberals of Ontario.

Men of the rebellion of 1837 appointed to office

Lafontaine had succeeded Papineau as leader of the French-Canadian Liberals; and with Lafontaine's appointment to the executive council there was also the appointment to office of several French-Canadians who had been concerned in the rebellion — men who belonged to what Wellington stigmatized as "a party tainted with treason." [1]

Wellington's indignation

"What a fool," declared Wellington, "the man (Bagot) must have been to act as he has done! And what stuff and nonsense he has written! And what a pother he makes about his policy and his measures, when there are no measures but rolling himself and his country in the mire!" "The duke," Peel was told, "can talk of nothing else; and is in a perfect fury of anger and indignation." [2]

Bagot's efforts to manage what Peel described as "the fierce democracy of Canada," developed

[1] Parker, III, 384.

[2] Parker, III, 382–383. Wellington died in 1852. With the exception of the Earl of Derby, who was thrice premier between 1852 and 1868, Wellington was the last British statesman who dreaded an extension of self-government to the colonies. He was the last to learn the lesson of the American revolution. He was certainly the last statesman to hold the idea that a British colony, which had the United States as neighbor, could long continue under military rule.

"The fierce democracy of Canada"

a situation that Wellington feared would be fatal to the connection of the United Provinces with Great Britain. What equally troubled Wellington — perhaps troubled him even more — was a dread that Bagot's concession to the democracy of French-Canada might be fatal to Peel's cabinet, of which he was a member without portfolio.[1]

Bagot recalled

Bagot had no friend at court. Long before his dispatches had arrived in London — dispatches that came as a thunderbolt to Wellington — as early, in fact, as September 9, 1841, Queen Victoria had regretted her formal approval of Bagot's appointment as governor-general. "The Queen," she wrote to Peel, "cannot refrain from saying that she cannot quite approve of Sir Charles Bagot's appointment, as from what she hears of his qualities she does not think that they are of a character quite to suit in the arduous and difficult position in which he will be placed." [2]

After much commotion within Peel's cabinet, Bagot was censured. It was hopeless for him to attempt to continue as governor-general. He asked for his recall. His request was complied with; and he died in Canada soon after the arrival of his successor, Sir Charles T. Metcalfe.

Bagot made his stand for Sydenham's enlightened policy. He was highly regarded as a colonial

[1] Cf. Parker, III, 382.

[2] Benson and Esher, I, 405–406.

reformer by radicals at Westminster such as Roebuck and Hume,[1] and by one at least of his biographers he is credited with having inaugurated responsible government in Canada.[2]

Bagot as a colonial reformer

## V. *Metcalfe's Repudiation of Responsible Government*

Unlike Durham, Sydenham, and Bagot, Metcalfe, who was created a peer in 1845, had had a varied experience of governorships before he reached Canada in 1843. He was then fifty-eight years of age. He had been, from the time he left Eton in 1800, to 1838, in the service of the East India Company—an indifferent school for a governor of a colony, with representative institutions, like the united provinces of Upper and Lower Canada, and a colony, moreover, that was vigorously pushing for responsible government.[3] Metcalfe's last Indian appointment was as lieutenant-governor of the northwest provinces. From 1839 to 1842 he had been governor of Jamaica, where he had been eminently successful in adjusting relations between the English sugar planters and the 400,000 negroes who had been liberated from slavery in 1838.

Metcalfe's oriental ideas of colonial government

Metcalfe did not follow the policy of Syden-

[1] Cf. Parliamentary Debates, Series III, vol. 75, pp. 33 and 61.

[2] Cf. "Dictionary of National Biography," Supplement I, 98; Boyd, "Cartier," 72.

[3] Walrond, "Letters and Journals of the Earl of Elgin," 33.

Sydenham and Bagot's policy thrown into the discard

ham and Bagot. He refused recognition of the principle of responsible government — any recognition that would satisfy Canadian political leaders. At the time Bagot resigned, the Lafontaine-Baldwin ministry was in power. This was the ministry whose formation had been the cause of Bagot's loss of prestige in Downing Street.

Metcalfe's ambition

Kingston was then the seat of government of the United Provinces; and Metcalfe, soon after he had established himself in that city as governor-general, undertook to make himself practically minister of the colony.[1] He refused to accept the recommendations of the executive council in regard to public appointments. He "refused to follow the advice of his ministers in matters which were within their absolute province." [2] Furthermore, when he was interviewed by a deputation of electors from Upper Canada, who asked that he follow the constitutional practice initiated by Sydenham, Metcalfe made a speech, much more suited to the political atmosphere of India than to that of any British North American province after the rebellion of 1837.

His attitude towards the executive council

"If you mean," said Metcalfe, "that the governor is to have no exercise of his own judgment in the administration of the government, and is to be a mere tool in the hands of the council, I totally disagree with you. That is a condition to which

[1] Cf. Speech by Earl of Ellenborough, H. of L., June 15, 1854.

[2] Speech by Cartier, at St. Denis, 1844, Boyd, 88.

I never can submit, and which her majesty's government, in my opinion, can never sanction.[1] If you mean that every word and deed of the governor is to be previously submitted for the advice of the council, then you propose what, besides being unnecessary, is utterly impossible, consistent with the due despatch of business." [2]

Metcalfe's conception of the use of political patronage

Metcalfe's difficulties with the Lafontaine-Baldwin administration had arisen over an appointment in the civil service — over patronage. In his speech Metcalfe took up this question, and expressed himself in strong terms in regard to the claims of the ministers. "If you mean," he continued, "that the patronage of the crown is to be surrendered for exclusive party purposes to the council, instead of being distributed to reward merit, to meet just claims, and to promote the efficiency of the public service, then we are at issue again. Such a surrender of the prerogative

[1] "The claim for responsible government," said Stanley, secretary of state for the colonies, in defending Metcalfe's policy and administration in Canada, in the house of commons on May 30, 1844, "is inconsistent with the existence of monarchical institutions; and in the next place with the relations that should exist between a colony and the mother country. It is inconsistent with monarchical government that the governor who is responsible should be stripped of all authority and all power, and be reduced to that degree of political power which is vested in the constitutional sovereign of the country."

[2] Egerton and Grant, "Canadian Constitutional Documents," 295.

of the crown[1] is, in my opinion, incompatible with the existence of a British colony."[2]

**His distinction as a governor-general of Canada**

There had been no utterance from a governor-general in this key since Head's rebuff to Mackenzie's constituents when they petitioned against his exclusion from the assembly at Toronto. Metcalfe has the distinction of being the last governor-general of Canada to use such language to his ministers or to their constituents.

Responsible government meant nearly all that Metcalfe inferred; and his attempt in 1843–1845 to stay the progress towards responsible government was as useless as it would have been for him to command the waters of Lake Erie to cease flowing over Niagara Falls.

[1] As late as October 1, 1843, there was no realization at Whitehall of the changing conditions in the United Provinces, or of the claim for responsible government which was being insistently pressed on the governor-general. In that month the "Rules and Regulations for Her Majesty's Colonial Service" were revised and reissued; and on page 19 in the new edition there is a rule applicable to the distribution of patronage. "Great weight," it reads, "must always be attached to local services and experience. Every governor will, therefore, make once in each year a confidential report of the claims of candidates, whether already employed in the public service or not, whom he may consider to possess that qualification, in order that when a vacancy, or an opportunity for promotion, occurs, the secretary of state may have before him the means of judging how far the particular candidate recommended by the governor is, on the whole, best qualified, and whether a candidate of proper qualifications is to be found in the colony or in any adjacent colony."

[2] Egerton and Grant, 295.

Racial divisions existed in the legislature of the United Provinces from 1841 to 1866. But party lines were not identical with race lines. All the members from Quebec were not Liberal, nor all the members from Ontario Conservative. Combinations of groups from each province were necessary to secure a party majority in the assembly. It was by a combination of this kind that the Lafontaine-Baldwin administration was formed when Bagot was governor-general.

Double-majority and double-headed cabinets

Such an administration was known as a double-majority and double-headed cabinet, because a British and a French party leader — of equal rank in the cabinet, and each with his regimented following in the assembly — were necessary to keep the administration in power.

Robert Baldwin, who with Lafontaine was at the head of the government when Metcalfe attempted to restore the old régime and enforce his old crown colony ideal of colonial government, was the leader of the Liberals in Ontario. He had been in the political life of the upper province since 1829, when he was elected to the assembly. He had been a radical and a reformer at Toronto, when association with radicals and reformers meant a boycott for a professional man — he was a lawyer — and meant also social ostracism.

Baldwin's part in the struggle for responsible government

With Baldwin from 1829 to 1849, responsible government was the alpha and omega of political reform. He was the author of the municipal code

of 1849, a democratic measure of much value in the domestic history of Ontario. But his fame today, like that of Lafontaine, rests chiefly on his part in the successful struggle for responsible government under the constitution of 1840.

**Outcome of Metcalfe's opposition to responsible government**

The Lafontaine-Baldwin government resigned in September, 1844. It was succeeded by the Draper-Viger government, which had as its following members of the assembly from both Quebec and Ontario, who were willing to accede to Metcalfe's views of responsible government. But these members were not numerous enough to give the Draper-Viger administration a majority in the assembly. Without a majority there could be no votes in supply — no money with which to carry on the government.

**Governor-general's power to dissolve the legislature**

Under the constitution a session of the legislature had to be held each year, and a legislature might continue in existence for four years. But, as under the British constitution, the governor-general had power, as he has today, to dissolve the legislature at a crisis which seemed to make expedient a new appeal to the electorate.

**Metcalfe as a Tory partisan**

Metcalfe, under the conditions which confronted him in the autumn of 1844 — with Lafontaine and Baldwin out of office, but with their followers still compact and hostile to the new government — was compelled to dissolve the legislature. He was compelled to take this step, or to yield to the demand for responsible government, as the radicals conceived it.

The new ministers, Draper and Viger, were Conservatives — Tories, as Conservatives in Canada were called until 1855. Metcalfe had had no experience in the management of elections. Elections were unknown in India. But he threw himself into the election of 1844 with all the vigor that had characterized Head's intervention in the election in Upper Canada in 1836, and with such success that a majority was secured in the assembly for Draper and Viger.

Last governor-general to interfere in elections

As Metcalfe was the last governor-general to assume what today would be regarded as a distinctly unconstitutional position towards an administration, so also was he the last governor who was openly partisan. He was the last to interfere in a general election in the interest of either party. Within less than a year of his success at the election of 1844, Metcalfe died — the third governor-general to die in Canada in the years from 1841 to 1845.

Queen Victoria's admiration of Metcalfe's policies

For only about two years was the movement for responsible government retarded by Metcalfe's conflict with the Lafontaine-Baldwin ministry and his success in securing a majority in the assembly for Draper and Viger. But unlike Bagot, Metcalfe had friends at court. His administration and his policy were regarded by Queen Victoria, and by the prince consort, as "prudent, consistent, and impartial."

"Upon the continuance and consistent application of the system which Lord Metcalfe has

laid down and acted upon," wrote Prince Albert, in August, 1846, "will depend, in the Queen's estimation, the future welfare of the province, and the maintenance of proper relations with the mother country." [1]

**Metcalfe's instructions**

Metcalfe's policy certainly was in accordance with the instructions he had received when he was appointed governor-general — instructions which Stanley, who was then colonial secretary in Peel's administration of 1841–1846, on February 2, 1844, declined to lay on the table of the house of commons.

**His policy defended by the colonial secretary**

There was a debate on that day on Metcalfe's administration. Stanley expressed satisfaction that the question had been raised; for he believed it of importance that there should be no mistake as to the views of the government. "Metcalfe," reads the report of Stanley's speech, "was sent to Canada to carry out the fairly new colonial system, but equally determined to resist those extravagant demands which were inconsistent with the authority of the crown, and of the true rights of a colony. He believed that the course taken by the governor-general was the right one, and he had no hesitation in stating that it met with the entire concurrence of the government at home." [2]

Metcalfe's death was regarded by the Queen as a great loss. Her correspondence with minis-

[1] Benson and Esher, II, 111–112.

[2] Parl. Debates, Series III, vol. 72, p. 145.

ters at this time shows that she fully endorsed their policy of conceding to the United Provinces something far short of what Baldwin and Lafontaine understood by the term — a term of Canadian origin — "responsible government." "The selection of a successor," the Queen wrote, "will be most difficult;" and she urged on Stanley, that it was of "the greatest importance that the judicious system pursued by Lord Metcalfe, which, after a long continuation of toil and adversity, only now [1] just begins to show its effect, should be followed up by his successor." [2]

Something short of responsible government to be conceded

Queen Victoria, in this letter of November 2, 1845, added that she knew "nobody who would be as fit for the appointment as Lord Elgin, who seems to have given great satisfaction in Jamaica," where he had succeeded Metcalfe as governor in 1842.

Queen suggests Elgin as Metcalfe's successor

## VI. *Responsible Government under the Elgin Régime*

During the whole of her sixty-four years' reign the Queen can scarcely have done what are now the dominions a more valuable service than when she suggested the appointment of Elgin to Stanley. The appointment was ultimately made, not by the Peel government to which the Queen had addressed her letter, but by the government of Lord John Russell, which had succeeded the Peel administration in July, 1846.

A fortunate suggestion

[1] November 2, 1845.

[2] Benson and Esher, II, 54–55; 111–112.

**Elgin's rank among makers of the British Empire**

Elgin, who was thirty-five when he was appointed governor-general, did not continue Metcalfe's policy, although when the Russell government was about to make the appointment — August 3, 1846 — the Queen urged on Earl Grey, the new colonial secretary, that "regard should be had to securing an uninterrupted development of Lord Metcalfe's views." [1]

Today Elgin ranks with Durham and Sydenham among the great colonial administrators of the nineteenth century. Had he followed in Metcalfe's footsteps — made speeches like that of Metcalfe to the advocates of responsible government, and interfered in elections — his name would have been of interest only to colonial antiquaries.

**Elgin's political faith in 1841**

Durham and Sydenham were Whigs — appointees of a Whig government. Bagot and Metcalfe were Conservatives, appointees of a Conservative government. Elgin was a Conservative. Had he not been a Conservative he would not have been suggested by the Queen to a Conservative government in 1846; for governorships in the dominions, as distinct from governorships of crown colonies, are regarded as patronage at Westminster, except when occasionally a prince or other connection of the royal family is appointed.[2] Otherwise governorships go, as a

[1] Benson and Esher, II, 112.

[2] The Marquis of Lorne, who was governor-general of Canada from 1878 to 1883, was husband of Princess Louise, daughter of Queen Victoria.

matter of course, to supporters of the administration at Westminster.

At this period of his career Elgin was a Liberal-Conservative.[1] But the liberalism was preponderant. He was not a Tory of the type of Wellington. He was not even a Tory of the school of Stanley, afterwards Earl of Derby, from whom in 1842 he had received his appointment as governor of Jamaica. He had avowed his liberalism when he was a candidate for the house of commons for Southampton, in 1841;[2] and he carried his liberalism into practice during the six years he was governor-general of Canada.

**Elgin's marriage with the daughter of Durham**

Before Elgin left England for Canada in 1847, he married a daughter of Durham. This would seem to have broadened his liberalism and strengthened his popular sympathies.[3] It undoubtedly gave the Durham family added importance in the history of the struggle for responsible government, a struggle which had been carried to a successful issue when Elgin left Canada in December, 1854.

**Helping the colonies to prepare for independence**

At the time that Elgin was governor-general of Canada, and for at least a quarter of a century afterwards, the attitude of many statesmen in England — Conservatives as well as Liberals — was that colonies such as Canada, Australia, and New Zealand would end the connection with Great Britain as soon as they were strong enough

[1] Cf. Walrond, *ibid.*, 9. [2] Cf. Walrond, *ibid.*, 9–10.
[3] Cf. Walrond, *ibid.*, 44.

to stand alone. Many English statesmen were convinced that the constitutions framed by parliament after 1840 for colonies with representative government were only provisional — only preliminary to constitutions in which these colonies would assert their complete independence.

**Newcastle's views on holding colonies by force**

Proof of the existence of this conviction is abundant in the biographies and letters of British statesmen of the first half of the nineteenth century. Expressions of it are to be found in the debates of the house of lords on June 15 and 29, 1854, on the legislative council (Canada) bill; and as late in the nineteenth century as 1862 the colonies were told by the Duke of Newcastle, who was secretary of state for the colonies in the Palmerston administration of 1859–1865, that he trusted the day would never come when the mother country would make an effort to retain her colonies by force.

**American influence once more**

"I trust," added Newcastle, "that the day will never return when a single redcoat will point a bayonet, or fire a shot, in hostility to the colonies if they wish to separate from the mother country." [1] Here again America had its influence on British colonial policy; for the conviction that the colonies would break away was largely based on Great Britain's experience of 1776–1783 with the American colonies.

These convictions were all ill-founded. This

[1] Speech by Duke of Newcastle, Australian anniversary dinner, London, February 12, 1862.

fact was demonstrated to the world several times in the years from Queen Victoria's jubilee in 1887 to the outbreak of the war in August, 1914. As one concession after another was made to the dominions, in the years from 1840 to 1907, when they were conceded the liberty to make their own commercial treaties with foreign powers, and as the dominions increased in population, material wealth, and world-wide political importance, they drew nearer to Great Britain. They attached increasing importance to the imperial connection; and when war came a million troops were raised in the dominions, and the response which the dominions made to the Empire's need was in some respects more remarkable than England's own.[1]

**Convictions for which there was no basis**

From 1840 to 1880, however, the conviction was widely held that the colonies with representative and responsible government would inevitably break away as soon as it suited them to do so.

Elgin never held this view of the temporary character of the connection between the dominions and Great Britain. He did not go to Canada with the idea that he was to aid in perfecting a system of government that was to be only provisional, or with the conviction that the British North American colonies would follow the example of the American colonies, and end the connection with Great Britain.

**Elgin convinced of the enduring connection of the colonies with Great Britain**

[1] Cf. Adams, "Imperial Federation after the War," *Yale Review*, July, 1916, 688–694.

**His conception of his mission in Canada**

As Elgin conceived it, his mission was to convince Canadians that, without severing the bonds that united them with Great Britain, "they might attain the degree of perfection and of social and political development to which organized communities of freemen had the right to aspire." [1]

**His frank adoption of the policy of Sydenham**

The principles on which Elgin based his policy as governor were identical with those that had guided Sydenham in 1841. He would identify himself with no party, but would make himself a moderator between the influential of all parties. He would have no ministers who did not enjoy the confidence of the Canadian people; and he would not refuse his consent to any measure, proposed by the ministry, unless it were of an extreme party character, such as the assembly or the electors would be sure to disapprove.[2]

**Family Compact and Elgin's declaration of his principles**

Elgin arrived at Montreal at the end of December, 1847. On the day that he took oath as governor-general, he received an address of welcome from the municipality of Montreal. In reply he intimated that he had frankly and unequivocally adopted Durham's view of colonial governorship — an intimation that caused no little astonishment to the Family Compact and its partisans, who had scarcely more sympathy with Durham's principles of colonial government than they had with republicanism in the United States.[3]

[1] Walrond, *ibid.*, 116. [2] Walrond, *ibid.*, 34.
[3] Cf. Walrond, *ibid.*, 36.

The Draper-Viger government was at this time still in office. The leaders and their partisans were in good humor, as they were in enjoyment of the offices to which as Tories of the Family Compact group they were convinced they had a prescriptive right. The Liberals were in a hopeful mood, as they were convinced — rightly, as it developed — that with the end of the Metcalfe régime a better era would open for the advocates of responsible government.

**Defeat of the Tory government**

A dissolution of the legislature came at the end of 1847. As soon as the newly elected assembly convened, early in 1848, the Draper-Viger ministry was again in the position in which it was when it was first organized. It was in a minority, and unable to carry on the government.

A new ministry — again a Lafontaine-Baldwin administration — was formed from the opposition; and at this juncture the members of the two parties observed a truce long enough to concur in an expression of admiration of the perfect fairness and impartiality with which Elgin had conducted himself during the election and the formation of the new ministry.[1]

**Elgin's first success**

Within a year of his assuming the governor-generalship, Elgin thus succeeded in carrying into effect the second of the principles on which his administration was to be based — that he would have no ministers, no members of the executive council, who could not command a

[1] Cf. Walrond, *ibid.*, 50.

majority in the legislative assembly. He had still to make a fight, in the end successful, for his third principle, that he would not refuse his consent to any measure proposed by the cabinet, unless it were of an extreme party character, such as the assembly or the electors would disapprove.

## VII. *The Rebellion Losses Bill*

**A landmark in Canadian constitutional development**

The test came on the measure known in Canadian history as the rebellion losses bill — a bill almost as important in the constitutional history of Canada as the act of union of 1840, and quite as important as the tariff acts of 1858–1859, out of which developed the right of British colonies, with representative and responsible governments, to frame their own tariffs without interference from the colonial office or parliament at Westminster.

The object of the rebellion losses bill was to provide for the indemnification of men in Lower Canada whose property had been destroyed during the rebellion. Elgin regarded the bill as a questionable measure; "but," to use his own words, "one which the preceding administration had rendered almost inevitable by certain proceedings adopted by them" during Metcalfe's term of office.

Some compensation had been paid to persons who had suffered loss of property in the rebellion. In the last session of the old legislature

of Upper Canada a compensation bill was enacted; and by an ordinance, passed by the council that was in existence in Lower Canada during the suspension of the constitution from 1838 to the union in 1840, some compensation was also paid in Lower Canada.

**Compensation to sufferers from the rebellion in Upper Canada**

In both provinces the payments made were deemed inadequate; and in the first session of the legislature of the United Provinces — 1841 — a bill was enacted for further compensation for sufferers in Upper Canada. In 1845 there was an appeal on behalf of sufferers in Lower Canada. It was addressed to Metcalfe, who responded by appointing a commission of inquiry. The commission reported in April, 1846, that there were losses for which compensation should be paid.

**Claims from Lower Canada**

The Draper-Viger government took no action on the report. The question of compensation was consequently pending when the Lafontaine-Baldwin government again came into power in 1848.

The Metcalfe commission had reported that $100,000 would cover the losses still to be compensated in Lower Canada. The bill that was introduced into the legislature in 1848 by the Lafontaine-Baldwin government appropriated $90,000 for this purpose. There was a provision in the bill that no person who had been convicted, or who had pleaded guilty of treason, during the rebellion, should be entitled to any compensation.[1]

**An unsettled question**

[1] Cf. Walrond, *ibid.*, 70–74.

Opposition by the Tories

The Tories in both provinces raised a great commotion against the bill. There was much hard language from the loyalists against Elgin, who was urged to dissolve the legislature, though little more than a year had elapsed since the general election. The bill, however, was persisted in by the Lafontaine-Baldwin administration.

Elgin's assent to the compensation bill resolutions

In all British legislatures money bills originate in the lower house. They are based on resolutions. If the resolutions are carried they are embodied in a bill which is introduced, and goes through all its stages in both houses like any other measure.

The resolutions on which the rebellion losses bill was based — resolutions which, by constitutional usage, could not have been submitted to the legislative assembly had the governor-general not signified his assent to them by message to the house — were carried by fifty to twenty-five votes. The bill was carried by forty-seven to eighteen votes.

His reasons for his assent communicated to the colonial office

The reasons which induced Elgin to give his assent to the resolutions were explained in a letter which he wrote from Montreal to Grey, who was secretary for the colonies in the Russell administration of 1846–1852. "The measure itself," he wrote, "is not indeed altogether free from objection; and I very much regret that an addition should be made to our debt for such an object at this time. Nevertheless, I must say,

I do not see how my present government could have taken any other course in this matter than that which they have followed. Their predecessors had already gone more than halfway in the same direction, though they stopped short and now tell us that they never intended to go further. If the ministry had failed to complete the work of alleged justice to Lower Canada which had been commenced by the former administration, M. Papineau [1] would most assuredly have availed himself of the plea to undermine their influence in this section of the province." [2]

Old school Canadian Tories' disregard for constitutional usages

A disposition to observe constitutional usages and practices was never characteristic of the Tories of the Family Compact groups in Upper and Lower Canada. They were a law to themselves, as was sufficiently proved by their ejection of Mackenzie from the assembly at Toronto. They again ignored constitutional usage in the crisis over the rebellion losses bill. They organized many petitions against the bill; but

[1] "Returning from exile in 1845, after eight years' absence from Canada, Papineau decided to reënter public life; and the prestige of his name, and of his past parliamentary triumphs, were sufficient to secure his election for the constituency of St. Maurice. Papineau at once showed himself irreconcilable. He was against the union. He had no faith in responsible government, such as was advocated by Lafontaine and his colleagues, and he declared in favor of independence." [1] Boyd, 76.

[2] Walrond, *ibid.*, 74–75.

instead of presenting these petitions to the assembly, or to the legislative council, in accordance with the usage at Westminster, they addressed them to Elgin personally. This unconstitutional course was obviously adopted with the design of bringing about a collision between the governor-general and his ministry and the assembly.

Elgin's attitude towards the opposition to the compensation bill

At Westminster, where petitions to the sovereign can only be presented through the home secretary, petitions thus out of order would have not reached the Queen. Elgin, acting consistently on the first of the principles on which he based his administration, that he would make himself a mediator and a moderator between the two political parties, received the petitions against the rebellion losses bill. He received them civilly, and promised to bestow on them his best consideration, but studiously avoided the expression of any opinion.

"By maintaining a strictly constitutional position," writes his biographer, "he failed that section of the agitators who calculated on his being frightened or made angry, while he left the door open for any one who might have candor enough to admit that, after all, he was only carrying out fairly the principle of responsible government." [1]

From the assembly the rebellion losses bill went to the legislative council; and here it

[1] Walrond, *ibid.*, 77.

should be noted that Elgin in appointing members to the council had acted on the advice of his ministers. By so doing, he had accepted another demand of the protagonists of responsible government, and established the usage which has continued at Ottawa and at Quebec and Halifax to the present day. It is in accordance with this usage that appointments to the senate, and to the legislative councils in the provinces where these exist, are made by the governor-general, or the lieutenant-governors, as representatives of the crown, but invariably on the advice of the cabinet at Ottawa or the provincial executives at Quebec and Halifax.

**Elgin's nominations to the legislative council**

The bill, having passed the assembly and the council, was ready for the royal assent on April 25, 1849. It received the royal assent from Elgin on that day. As Elgin left the parliament house in Montreal he was received with mingled cheers and hooting, and his carriage was pelted with rotten eggs, thrown by a "small knot of individuals consisting of persons of a respectable class in society."

**Compensation bill receives the royal assent**

An open-air demonstration in the Champs de Mars followed the outbreak at the parliament building. Inflammatory speeches were made; and on a sudden the mob proceeded to the house of parliament, where the members were still sitting. After breaking the windows, the mob set fire to the building, and burned it to the ground. The crowd then dispersing, members

**Loyalist demonstrations**

of the legislature were permitted to leave without molestation; and no resistance was offered by the riotous loyalists to the soldiers who came on the scene to assist in extinguishing the fire.[1]

**An address from the legislative assembly**

At the next sitting of the assembly an address was voted to the governor-general. It expressed abhorrence of the outrage of April 25, and approval of Elgin's "just and impartial administration of the government." It also commended his attitude towards the Draper-Viger ministry as well as towards the Lafontaine-Baldwin cabinet.

**More loyalist demonstrations**

Elgin went into the city on April 30 to receive this address. He was escorted by a troop of volunteer dragoons. On his way through the streets he was greeted with a shower of stones. Returning from the parliament house to Monklands, his residence on Mount Royal, Elgin varied his route to avoid further hostile demonstrations. But the mob, discovering his purpose, rushed in pursuit. They again assailed his carriage with stones, rotten eggs, and other missiles; and it was only by furious driving that the governor-general reached Monklands unhurt.

For several days Monklands was prepared for a siege; and for two or three weeks Elgin did not leave the grounds, as he was determined that no act of his should offer occasion or excuse to the mob — an exclusively British as distinct from a French-Canadian mob — for further outrages.

[1] Cf. Walrond, 81–82; Burpee, "Sandford Fleming," 34.

Members of the Lafontaine-Baldwin ministry feared that if Elgin went again into Montreal, his life would be in danger.[1] As the legislature was still sitting, ministers urged the appointment of a deputy-governor for the purpose of proroguing the legislature, thus avoiding another journey for Elgin to the parliament house. Less responsible advisers urged Elgin to use the military forces at his command to protect his person in an official visit to Montreal.

Elgin's life regarded as in danger

While Elgin was thus a prisoner at Monklands, there were two developments of importance — Elgin tendered his resignation to Grey, and addresses were forwarded to the governor-general from various parts of Upper and Lower Canada indorsing the fight he was making for responsible government.

Developments during the crisis

One of these addresses was from a settlement of Scotch Highlanders in the county of Glengarry, Upper Canada. "It is truly gratifying to me," wrote Elgin to his fellow countrymen in Glengarry, "to learn that you appreciate my exertions. Depend upon it they will not be relaxed. I claim to have something of your own spirit, devotion to a cause which I believe to be a just one, courage to confront, if need be, danger

Elgin defines the cause for which he was struggling

[1] "Great as has been Elgin's success," said the Earl of Derby, in the house of lords, on June 29, 1854, "I cannot help saying and feeling that the leading principle on which Lord Elgin has acted has been concessions one after another to popular demands — concessions which would enable him to lead an easy life."

and even obloquy in its pursuit, and an undying faith that God protects the right." [1]

**Constitutional government on its trial**

Elgin's resignation was offered to Grey on April 25, the day that the loyalists burned the parliament house. "It is my firm conviction," he wrote to the colonial secretary, "that if this dictation be submitted to, the government of this province by constitutional means will be impossible, and that the struggle between overbearing minorities, backed by force, and majorities resting on legality and established forms, which has so long proved the bane of Canada, driving capital from the province, and producing a state of chronic discontent, will be perpetuated."

**Elgin offers his resignation to the colonial office**

These were the views that Elgin unfolded to Grey. But while holding these views as to the real nature of the struggle then going on in Montreal, he conceived it his duty to the government at Westminster to suggest that "if he should be unable to recover that position of dignified neutrality between the contending parties which it had been his unremitting study to maintain," it might be a question "whether it would not be for the interests of her majesty's service that he should be removed to make way for some one who should have the advantage of being personally unobnoxious to any section of her majesty's subjects within the province." [2]

Grey would not hear of Elgin's resignation. Were he to resign it would be a most serious loss

[1] Walrond, *ibid.*, 87–88.

[2] Walrond, *ibid.*, 86.

to her majesty's service and to the province. Moreover, with conditions as they were in Montreal, it would be "most injurious to the public welfare, from the encouragement which it would give to those who had been concerned in the violent and illegal opposition" to Elgin's government. Relying on Elgin's devotion to the interests of Canada, Grey was sure he would not be induced to retire from the high office the Queen had been pleased to intrust to him, "and which," he added, "from the value she puts on your past services, it is her majesty's anxious wish that you should retain." [1]

**Queen Victoria anxious that Elgin retain his office**

## VIII. *Responsible Government Accepted and Indorsed by Parliament at Westminster*

The loyalists then appealed to England. Petitions were sent from Montreal to Westminster for the disallowance of the rebellion losses bill. Gladstone, who, it will be recalled, was not of the Liberal party until 1859, denounced the bill in the house of commons [2] as a measure for the rewarding of rebels; and Herries, who had been a member of the Wellington and Peel administration, moved for an address to the Queen for its disallowance. There was a debate on this motion extending over two nights. In the course of it Elgin's policy was defended by Peel, almost as strongly as by Russell.

**Appeals by the loyalists to parliament at Westminster**

Russell stoutly contended that under the

[1] Walrond, *ibid.*, 86–87.

[2] June 14, 1849.

Russell's eulogy of responsible government

constitution of 1840 the majority in the United Provinces must rule. The premier's speech was remarkable, in view of his dread in 1837, and again in 1840, of responsible government in Canada. "Not only," he said, "has Canada self-government, but responsible government, which has never been enjoyed to such an extent as it has been since the time of the Earl of Elgin. If the present ministry in Canada are sustained by popular opinion and by the assembly, they will remain in office. If, on the contrary, the opinion of the province is adverse to them, the governor-general will take other advisers, and will act strictly in accordance with the rule that has been adopted here."

End of a twenty years' struggle

There was a majority of 141 against the motion to disallow. In the house of lords a majority also supported the position that Russell had taken in the house of commons; and by these two epoch-making divisions at Westminster in June, 1849, a struggle that had been going on in Canada since 1828 was brought to a triumphant conclusion. Thereafter there was no more discussion of Canadian grievances in parliament at Westminster. There were no more petitions from Conservatives in Canada who objected to responsible government.

A new principle adopted at the colonial office

Thenceforward a new principle governed the colonial office in its relations with colonies with representative and responsible government. This principle was that the imperial government had

no interest whatever in exercising any greater influence in the internal affairs of the colonies than was indispensable, either for the purpose of preventing any one colony from adopting measures injurious to another, or to the empire at large.[1]

A free hand to colonial legislatures and governments

In the following year, 1850, when bills establishing responsible government in New South Wales, Van Diemen's Land, New Zealand, and Cape Colony were before parliament, Russell made a statement of the attitude of the imperial government towards the colonies that are now of the dominions. "I am convinced," he said in the house of commons, "that any man acquainted with the colonies will come to the conclusion that it is only in rare cases that the authority of the crown ought to be interposed, and that with regard to local affairs the executive and legislative authorities of the colonies are the best judges."

Responsible government extended to British colonies on three continents

Thus within a year of the attacks of the Tory mob on Elgin, and the burning of the parliament house at Montreal, the success which had been achieved by Papineau and Mackenzie, by Lafontaine and Baldwin, and by Durham, Sydenham, Bagot, and Elgin, was beneficently affecting British colonies on three continents. Abiding foundations were also being laid for the development of the good relations between Great Britain and the dominions that were manifested to the world when Germany declared war in 1914.

[1] Egerton and Grant, 297.

Elgin's services to Canada and the empire

Elgin, who, later in his career, was British envoy to China, and viceroy of India, was governor-general of Canada from 1847 to 1854. In these seven years — years of political turmoil, and also of commercial dislocation and depression due to the sweeping fiscal reforms of 1846–1847 in the United Kingdom — he did more than any governor-general before or after him to create a political civilization for Canada.

He did much also to establish better relations between the British North American provinces and the United States; for he was primarily responsible for the much-valued treaty of reciprocity with the United States that was in force — to the moral and material advantage of both countries — from 1854 to 1866. Elgin's fame as a statesman of the empire, like that of Durham and Sydenham, is enduring. It will survive as long as the history of Great Britain's oversea dominions is read. Every privy council chamber in the political capitals of Canada, Australia, New Zealand, South Africa, and Newfoundland is a monument to Elgin's achievements of 1847–1854.

## IX. *The Development of the Political Civilization of Upper and Lower Canada*

A backwoods political civilization

The extreme poverty of the political civilization of Upper and Lower Canada had been revealed to the world by Durham. It was a backwoods or frontier political civilization. Even as such it was inadequate.

An era of reform

In Upper Canada the men who were active in political life — unless they were of the Family Compact group, and satisfied with conditions as they were — realized this poverty quite as much as Durham had done when he was in Canada in 1838; and as soon as the question of responsible government was satisfactorily settled in 1849, there began an era of political development which extended from 1851 to 1866, an era which is without parallel in the nineteenth-century history of any English-speaking country.

Municipal government and education

Even before the disturbing questions of responsible government and the relation of the state to religion were settled, the upbuilding of a political civilization had been well begun. County and municipal government had been established on a democratic basis. Systems of public education — one for Upper Canada, and another for the French province — had been organized. The criminal code had been humanized. Postal services had been greatly extended.

Railways and St. Lawrence navigation

The adoption of free trade in England in 1846, and the abandonment of the old British colonial policy, had enabled the United Provinces to enact their own customs laws; although these laws were not for the protection of home industries until 1858. Liberal naturalization laws had been enacted. Government aid had been given to railway undertakings; and large sums of money had been expended on road construction, on the Welland and St. Lawrence canals, and

on the ship channel in the St. Lawrence that gives access to Montreal from the sea.

**Clear Grits and Rouges**

All this work was going on before responsible government was finally achieved in 1849. With this achievement began the era of constitutional reform that continued until Confederation. The reformers were Liberals — Rouges as they were called in Lower Canada, Clear Grits in Upper Canada.[1]

**Program of the reformers**

In Upper Canada, where political thought was most active and potent, the program of the reformers in 1851 was in two divisions. In the first were reforms which it was in the power of the legislature, under the constitution of 1840, to make. In the second were constitutional reforms, which, in some important respects, could only be made by the legislature after liberalizing amendments had been made to the constitution by parliament at Westminster.

**Old laws to be repealed**

The more important demands in the first division of the program of 1851 were:

1. Simplification of procedure in the law courts.

[1] "In Canada parties have been known by different names. We have had Liberals and Conservatives, Rouges and Blues, Grits and Tories, and for a short period under Robert Baldwin, Reformers. It was in 1851 that Brown fastened on that section of the Reform party which, under Malcolm Cameron, withdrew its confidence from the Baldwin-Lafontaine ministry, the term 'Clear Grits'; and from that day to this the name Grits has been used colloquially to designate the Liberal party." — *Gazette*, Montreal, October 15, 1917.

2. Repeal of all laws conferring special privileges on churches.

3. Reform in the method of sale of crown lands.

4. Free navigation of the St. Lawrence for all nations.

5. Abolition of primogeniture, which had become the law in Upper Canada, when, by act of its legislature in 1792, English law had been declared the law of the province.

6. *Abolition of customs houses and duties on imports.

7. Establishment of a uniform decimal currency.

Amendments to the constitution of 1840

In the second part of the program, as it stood in 1851, the demands were:

1. * Election of the governor.

2. An elected legislative council.

3. Election by county and municipal councils of all county and municipal officers.

4. Abolition of the property qualification for members of the assembly, created by the imperial act of 1840.

5. An extension of the electoral franchise — an extension that would bring in all householders.

6. Vote by ballot.

7. * Biennial legislatures with a fixed term, instead of legislatures of uncertain duration.

8. No expenditure of public money without the control of the legislature.

9. Representation according to population — a demand which developed out of the obvious

over-representation of Lower Canada in the legislature of the United Provinces.

10. Abolition of pensions to government officials.

11. Canadian commerce and commercial intercourse with other nations to be entirely under the control of the legislature.[1]

12. *The legislature to have power to alter or repeal any act or charter, imperial or otherwise, affecting only Canada, which the imperial parliament itself might alter or repeal.[2]

**Revival of some of the popular demands of 1828–1837**

These were the demands of the Liberals of Upper Canada in 1851. In the second part of the program there was a revival of the demand of the reformers of 1828–1837 for an elected instead of a nominated legislative council; and in 1852 another of these earlier demands was revived — the demand for the exclusion of judges and office holders from the legislature.

**Attitude of the Conservative party**

The Conservatives naturally were not reformers. They opposed most of the demands in the program of 1851. It was, however, mainly with the Conservatives of Toronto, Montreal, and Hamilton — with the manufacturers of

[1] This was the beginning of the movement for the right of Canada to make her own commercial treaties — the movement that achieved complete success when plenipotentiaries named by the Laurier government of 1896–1911 negotiated the reciprocity treaty with France of 1907.

[2] Cf. Clarke, 65. The demands marked with an asterisk have not been realized and have not been pressed since Confederation.

these cities — that there originated in 1856–1857 a movement for a protective tariff for the United Provinces, a tariff that should protect Canadian manufacturers against both British and American competition. This movement was almost immediately successful.

**Reforms that were effected before Confederation**

At least ten of the reforms were realized in the era of great political activity from 1851 to 1866. Others, such as vote by ballot, the abolition of tolls on the Welland and the St. Lawrence canals, representation according to population, and the right of Canada to make her own commercial treaties, were not realized until after Confederation in 1867.

**Concessions made at Westminster**

Only those demands which entailed amendments to the imperial act of 1840 are of paramount interest; and this interest is chiefly in the conciliatory spirit in which governments at Whitehall, and parliament at Westminster, met the demands from Canada for democratic amendments to the constitution of 1840, and for amendments to other legislation of the imperial parliament affecting Canada, that hindered reforms which the legislature was prepared to undertake.

**Amendments to the act of the imperial parliament of 1840**

There were four of these amendments in the sixteen years that the constitution of 1840 was in force. They were all made in the years from 1847 to 1854. Two of the most important — one giving the legislature a free hand in making a final settlement of the clergy reserves question, and the other bestowing large powers on it for

reforming its own constitution — were made while Elgin was governor-general.

**Increased powers granted to the provincial legislature**

These two amendments were made by the imperial parliament at Elgin's request, or at any rate they were made at the request of the cabinet of the United Provinces, with the cordial approval of Elgin. By these four amendments parliament at Westminster parted with control it had exercised over Canada, and by so doing increased appreciably the power of the legislature of the United Provinces.

**Civil list and the consolidated fund**

The first amendment, enacted at Westminster in 1847, removed the restrictions in the constitution of 1840 on the civil list and the consolidated fund. These restrictions had been imposed on account of the serious difficulties that arose in 1833–1837, when the legislative assembly of Lower Canada refused to pass money bills. The new legislature of the United Provinces chafed under these restrictions; and apparently without a word of opposition in parliament at Westminster, they were all removed, and thenceforward the legislature was as free as the imperial parliament in the appropriation of public money.

**Use of the French language**

A valuable concession was made to Lower Canada by the second amendment, made in 1848. French-Canadians were aggrieved by the provision in the constitution that all legislative and state documents, which were to be of record, must be in English. Copies of these documents might

be printed in French, but these copies were not to be of official record.

By the amendment of 1848, without opposition in either the house of commons or the house of lords, a greater use of the French language was conceded. The amendment, in fact, gave to the legislature — in practice to each house — power to make such regulations as to the use of French as might seem desirable. It was an amendment that was in train before Elgin became governor-general. Apparently Metcalfe had urged it; and Gladstone, during his short tenure of the office of colonial secretary in Peel's second administration, had promised that parliament should be asked to enact it.

Papineau's new agitation

Elgin welcomed the new freedom in the use of French; for in 1847–1848 Papineau was agitating in Lower Canada against the restrictions of 1840 on the use of the French language; and Elgin was, moreover, convinced of the impolicy of all attempts to denationalize the French-Canadians.

Elgin's attitude towards French Canada

"Generally speaking," wrote Elgin to Grey, "all such attempts produce the opposite effect from that intended, causing the flame of national prejudice and animosity to burn more fiercely. But suppose them to be successful, what would be the result? You may perhaps Americanize, but depend upon it by methods of this description you will never Anglicize the French inhabitants of the province. Let them feel, on the other

hand, that their religion, their habits, their prepossessions, their prejudices if you will, are more considered and respected here than in other portions of this vast continent, who will venture to say that the last hand that waves the British flag on American ground may not be that of a French-Canadian?" [1]

**French Canada and the United States**

Here again "our only neighbor," to use Cartwright's phrase, influenced British policy towards Canada. Obviously it was Elgin's purpose that conditions for French-Canadians should be such that they would realize the advantage of British supremacy. They would realize that the institutions they cherished — language, church, and schools — had a greater likelihood of permanency within the British Empire than if Lower Canada should become a state of the adjoining republic.

**Speech from the throne in English and in French**

Elgin spoke French with ease and fluency. He addressed meetings in French as well as in English during the first year of his governorship; and when the legislature assembled at Montreal, in January, 1849, he took advantage of the new amendment to the constitution to deliver the speech from the throne in the chamber of the legislative council in French as well as in English. This was an innovation so far as the legislature of the United Provinces was concerned. It was disliked by the Tories; but it established a usage which is followed to this day at the opening and proroguing of parliament at Ottawa.

[1] Walrond, *ibid.*, 54.

A final settlement of the clergy reserves question

The British act of 1853 which empowered the legislature of the United Provinces to make a complete settlement of the clergy reserves, was not an amendment to the constitution of 1840. It repealed an act, passed by parliament in 1840, which authorized the legislature to rearrange the clergy reserves scheme of 1791,[1] and to divide the proceeds of the lands among all the Christian churches, the larger shares to be assigned to the Episcopal church of England and the Presbyterian church of Scotland.

"Discord, strife, and hatred"

In 1851 the government of the United Provinces was desirous to sweep away the whole system. Since 1819 the system had been, as Sydenham described it in 1840, "the perpetual spring of discord, strife, and hatred." But the legislature could take no step in this direction with the imperial act of 1840 in effect, and it accordingly petitioned the government at Westminster for the repeal of the law.

The amending bill in parliament

A coalition government — Conservatives and Whigs — with the Earl of Aberdeen as premier, and the Duke of Newcastle as colonial secretary, was in power in 1853, when parliament was asked to repeal the act of 1840. The petition

[1] After the establishment of the clergy reserves by the imperial act of 1791 an attempt was made in Upper Canada to establish the tithe system, as it then existed in connection with the Episcopalian church in England and Wales and in Ireland. The legislature, however, ended this attempt in 1821. Cf. Statutes of Upper Canada, 1821, ch. 32.

asked the transfer to the legislature of Canada of the power of dealing with these reserves.[1]

The bill, unlike the bills of 1847 and 1848, amending the constitution of 1840, met with opposition in both the house of commons and the house of lords. In the commons, the strongest opposition came from Sir John Pakington, who had been secretary for the colonies in the Conservative administration of February-December, 1852. Wilberforce, Bishop of Oxford, was its most resolute opponent in the house of lords. But it was carried in both houses; and the only restriction imposed in the new law on the action of the legislature was a clause protecting the life interest of beneficiaries under the act of 1840.

**End of the connection between church and state**

The legislature of the United Provinces lost no time in exercising the power thus conferred upon it. In fact, it had been waiting since 1851 for authority to proceed. A settlement of the clergy reserves question was made in 1854. All connection between church and state was then ended; and in connection with this Canadian bill, there was an incident in the house of commons which illustrates the new attitude of parliament and government at Westminster towards colonial legislation.

A member of the house of commons had moved that a copy of the bill of 1851 of the legislature of the United Provinces be laid on the table of the

[1] Cf. Speech by Sir William Molesworth, H. C., March 4, 1853.

house. Sir George Grey was then colonial secretary in the Aberdeen administration. Usually a motion of this kind is complied with at once. But Grey moved that the motion be discharged. The government had no copy of the bill. No copy had been forwarded by the governor-general; "and," added Grey, "if the government should write to the colony for a copy, it would look like interference on their part with a measure pending before the colonial legislature." [1]

Parliament and the freedom of the provincial legislature

## X. *Democratic Amendments at Westminster to the Constitution of 1840*

The most important of the democratic amendments to the constitution of 1840 were made in 1854. At the instance of the Aberdeen government, parliament then empowered the legislature of the United Provinces to make radical changes in its constitution. At the same time parliament surrendered a right, under the constitution of 1840, to a veto on certain bills enacted by the legislature.

Parliament surrenders a veto power

These bills were measures concerning religion and crown lands. In the event of the legislature passing such measures it was the duty of the governor-general to reserve them. They were sent to Westminster. Copies of them must lie for thirty days on the tables of the house of commons and the house of lords; and in these thirty days it was open to any member of parlia-

Religion and crown lands

[1] Sir George Grey, H. C., December 19, 1854.

ment to move for an address to the Queen praying her to withhold the royal assent. In any case there could be no royal assent until the bills had thus been before parliament for thirty days.

**New powers sought by the legislature**

At this time — 1852–1854 — the legislature of the United Provinces was intent on several reforms to its constitution. It was desirous (1) that part of the members of the legislative council should be directly elected; (2) that there should be an elected speaker of the council, instead of a speaker nominated by the governor-general — in practice by the government; (3) that a property qualification should not be required for election to the assembly; and (4) that the legislature should have power to increase the number of members of the assembly, unrestrained by a section in the constitution of 1840, which provided that such an increase could be made only by a two-thirds majority in each branch of the legislature.

**Opposition by the leader of the Conservative party at Westminster**

The Aberdeen government was quite ready to amend the act of 1840 as the legislature desired. It was willing, as was bitterly protested by Stanley, now Earl of Derby, to agree to "an absolute subversion of the present constitution"; willing to make a "change from the present form of a limited monarchy into what would be practically and absolutely a democratical government." [1]

As Newcastle, the colonial secretary, was of the house of lords, the bill making these changes was

[1] H. L. Debates, June 22, 1854.

introduced in the upper house at Westminster. In acquainting the house with its provisions, Newcastle described the changes desired, and intimated that when the Aberdeen government acceded to the petition of the legislature three courses were open to it:

**Aberdeen government grants all the concessions asked by the legislature**

The government could have (1) adopted a draft measure making these changes in the constitution of the legislature, which had been sent over from Canada, and by following this course parliament at Westminster would have settled the question for Canada; (2) it could have asked the legislature to pass and send to Westminster a bill making these changes, which could be confirmed by imperial act; or (3) government could ask parliament to repeal the sections of the constitution of 1840 which prevented the legislature from making the desired changes itself.

**"Undoing the bad legislation of former years"**

"To have adopted the first course," Newcastle told the house of lords, "would have been at variance with those principles of colonial government which I have endeavored to carry out during the time I have held the seals of the colonial office." "The proper course to pursue," he continued, "is to legislate no more for the colonies than we can possibly help. Indeed, I believe that the only legislation now required by the colonies consists in undoing the bad legislation of former years." [1]

[1] H. L. Debates, June 15, 1854.

**Failure of the nominated legislative council**

Newcastle, by inference, thus classed the many restraining clauses of the constitution of 1840 as "bad legislation"; and in defending the amendment which conceded to the legislature liberty to reform the legislative council, he admitted that the nominated legislative council had been a failure. "It does not," he said, "exercise that due influence in the colony or the legislature which it ought to possess."

**Nominations to the council refused**

Furthermore, the legislative council, as then constituted, was so little esteemed that difficulty had been experienced in finding men who were willing to accept appointments to it. "It has fallen," added Newcastle, "into disfavor with the colonists to such an extent that men have frequently expressed their repugnance and unwillingness, and in many instances their positive refusal, to enter the legislative council." [1]

**Opposition to the amending bill in the lords**

Opposition to these democratic changes was strongest and most persistent in the lords. Derby, who was at this time leader of the Conservative party, was anxious to retain direct control by parliament at Westminster over the legislature of the United Provinces. He was intent on retaining some of the restraining sections of the act of 1840. But only 39 peers voted with him — 39 to 63 — when he divided the house at second reading of the bill.

In the house of commons the opposition lacked the spirited lead, the vigor, and the persistence

[1] H. L. Debates, June 15, 1854.

of the opposition in the lords. The bill, comprehensive and far-reaching as it was, was enacted in the form in which it had been introduced by Newcastle, whose name five years later was to be associated with another great concession to political agitation in Canada — the concession to the legislature of the right to make what tariffs it pleased.

No strong opposition in the commons

In its exercise of its new powers under the imperial acts of 1854, the legislature of the United Provinces in 1856 enacted a law for the addition of elected members to the legislative council. The franchise on which these members were elected was the same as that on which members of the assembly were chosen. It was a prerequisite to election that a candidate should be the owner of real estate to the value of £2000, over and above all incumbrances and debts. There was also a provision in the law which excluded clergymen of the churches of England, of Scotland, and of Rome. The term of the elected members was eight years.

A partly elected legislative council

Forty-eight new electoral divisions — twenty-four in Upper Canada and twenty-four in Lower Canada — were created by the act of 1856. But all these electoral areas were not to elect councilors at once. The forty-eight new members were to be gradually introduced; and lots were drawn to determine which divisions should form the groups to elect first. There were only two elections between 1856 and Confederation, when

New electoral divisions

the total number of the council — nominated and elected — stood at forty-eight. Of these twenty-three had been appointed, and twenty-five were of the council by popular election.[1]

**Extent of the concessions of 1840–1854**

With the enactment by the imperial parliament of the amending law of 1854, about all that now remained to the government at Westminster in connection with the administration of the United Provinces was the appointment of the governor-general. It will be recalled that the provinces had enjoyed the right to frame their own customs tariffs since 1847; and in that year also, it may be added, as a result of the thoroughgoing revision of the old navigation code by parliament at Westminster the United Provinces obtained the right to make their own coastwise navigation laws as regards the Great Lakes and other inland waters.

**Great Britain responsible for the defense of Canada**

In the fourteen years from 1840 to 1854, Great Britain had frankly and completely surrendered to the United Provinces all the rights which were once considered a necessary condition to the holding of colonies. Great Britain, in those years, was, as she is today, responsible for the defense of Canada. "She guards our coasts, she maintains our troops, she builds our forts, and she spends hundreds of thousands among us yearly." So Canadians were reminded in 1851 by George Brown, leader of the Liberal party in

[1] Cf. Statutes of U. P., 19 and 20 Vict., ch. 100; Mackenzie, "Life and Speeches of George Brown," 308.

Upper Canada, when there was an agitation against the payment of the salary of the governor-general from the treasury of the United Provinces.[1]

Growth in power of the provincial legislature

Except as regards the navy these direct burdens of Great Britain were gradually reduced. Most of them, in fact, were entirely removed in the forty-seven years from Confederation to the great war. But while still carrying all this responsibility, while still defraying the cost of patrolling the coasts, the expense of troops in Canada, and the maintenance of forts at Kingston, Quebec, and Halifax, Great Britain conceded to the United Provinces (1) responsible government; (2) the patronage of the crown; (3) control over crown lands; (4) control over the civil list; (5) the customs; (6) the post office; (7) the clergy reserves; (8) freedom from the old navigation laws; and (9) liberty to the legislature, as great as was then, or at any time, enjoyed by parliament at Westminster, to change its constitution, and greater than has ever been enjoyed directly by congress at Washington.

Privileges conceded at Washington to Canada

In this period Great Britain also obtained for the United Provinces the right to the free navigation of Lake Michigan, and in the years from 1854 to 1866 secured for all the British North American provinces, except British Columbia, the advantages of commercial reciprocity with the United States.

[1] Mackenzie, "Life of George Brown," 50.

## XI. *The Unwritten Constitution of the United Provinces as Developed from 1841 to 1859*

**Canada's gains from the adoption of free trade by Great Britain**

Most of these concessions, as well as two others still to be mentioned, were based on acts of the imperial parliament. Three of them — control of customs, freedom from the old navigation laws, and liberty to enjoy commercial reciprocity with the United States — resulted from Great Britain's adoption of free trade in 1846, and from the liberalizing amendment, made by parliament in 1846, to what was known in the old colonial code as the British possessions act of 1845.[1] Freedom of navigation of Lake Michigan, an exclusively American lake, was secured by a treaty negotiated by Great Britain with the United States.

**Powers assumed by the legislature**

Three rights, however, were assumed by the legislature of the United Provinces between 1841 and 1859 for which usage was the only basis. For these rights, so long as the constitution of 1840, as amended by parliament at Westminster in 1854, was in operation, no act of the imperial parliament could be cited as the authority on which the legislature and government proceeded.

In the order in which they were assumed, these rights were (1) the right of the legislature to insist on an executive or cabinet which was sup-

[1] Cf. Porritt, "Sixty Years of Protection in Canada," 188–189; 8–9 Vict. ch. 93; and 9–10 Vict. ch. 94.

ported by a majority in the legislative assembly — 1841–1849;[1] (2) the right of the legislature to exercise the same power that parliament at Westminster then exercised in matrimonial causes — in other words divorce cases, 1853; and (3) the right of the legislature to enact protective tariffs without interference from Whitehall, 1859.

## XII. *The Legislature of the United Provinces Assumes Control over Divorce*

Matrimonial causes

The right of the legislature of the United Provinces to grant relief in matrimonial causes would seem to have been assumed in 1853.[2] Parliament at Westminster exercised this right from 1551 to 1857, when the divorce court in London was created.[3]

Five provinces still without courts for matrimonial causes

Not more than four or five divorce bills were enacted by the legislature of the United Provinces from 1853 to Confederation. But at Confederation it was not practicable, owing to the opposition of Catholic Lower Canada, to follow the example of England of 1857, and

[1] The history of the struggle by which responsible government was won has already been recounted.

[2] The legislature of Upper Canada, in the last year of its existence, 1840, had enacted a divorce bill in the interest of John Stuart, of London, in that province. Cf. Statutes of Upper Canada, 3 Vict., ch. lxxii. This was, as far as can be ascertained, the only divorce bill enacted by the legislature of Upper Canada during the forty-nine years of its existence.

[3] Cf. Clifford, "A History of Private Bill Legislation," I, 389–391.

delegate all matrimonial causes to the courts in all the provinces. By a usage, the origin of which has thus been described, it comes about that today petitioners for divorce in Ontario, Quebec, Manitoba, Saskatchewan, and Alberta — the five provinces in which courts with jurisdiction in divorce cases have never been established — must go for relief to parliament at Ottawa.[1]

## XIII. *The Fiscal Freedom of the United Provinces*

**Protective tariffs against British imports**

The right to enact protective tariffs without interference from Westminster — tariffs which might be detrimental to the commercial interests of the United Kingdom, but which were regarded as in the interest of the United Provinces — was first asserted by the legislature in 1858. After one strongly worded protest from the colonial office the right was conceded by the British government in 1859.

**Influence of the American tariff of 1842**

Once again in the period between the rebellions in Lower and Upper Canada and Confederation, but not for the last time in these twenty-nine years, American influence and example had weight in determining policies in Canada; and in this instance in affecting also policies of colonial governments in Australia and New Zealand.

It was the development of manufacturing in New England and in other states adjacent to

[1] Cf. Sinclair, "Rules and Practice before the Parliament of Canada upon Bills of Divorce," 1–3.

Canada, under the United States tariff of 1842, that gave the impetus at Hamilton, Toronto, and Montreal to the protectionist movement.[1] The movement had its origin at Hamilton in 1847. It resulted in the enactment in 1858 by the legislature of the United Provinces of what is known in Canadian fiscal history as the Cayley tariff.

Cayley tariff

The Cayley tariff takes its name from the minister who framed it and piloted it through the legislative assembly, where in accordance with British constitutional procedure all money bills originated. It was a frankly protectionist tariff — the first tariff to protect domestic manufacturers enacted in any of the British North American provinces, or in any colony that is now of the dominions.

The measure superseded the tariff of the United Provinces of 1856. In this tariff — a tariff exclusively for revenue — the general range of duties on manufactured goods, imported either from the United Kingdom or the United States, was fifteen per cent. Only in a few instances were the duties on these imports as high as twenty per cent.

Comparison with American tariff of 1842

In the Cayley tariff the general range of duties was increased to twenty per cent. Duties as high as twenty-five per cent were levied on boots, shoes, harness, and saddlery, on leather, clothing, and wearing apparel. These duties

[1] Cf. Edward Porritt, "Canada's National Policy," *Political Science Quarterly*, June, 1917, 197–208.

were nearly as high and as protective as those in the United States tariff of 1842.

First anti-dumping clause

There was no concealment by the government of the United Provinces of the character of the new tariff. Protectionist arguments were advanced from the treasury bench in the assembly in support of the higher duties. In particular when objection was made to the increased duty on soap, a duty in the interest of a factory in Montreal, Rose, the attorney-general, assured the house that the change was made because the Canadian market was flooded with the refuse soap of British manufacturers, which was entered at the customs house at prices below those at which soap had ever been sold in the United Kingdom.[1]

Tory party assumes a new name

By this time, 1858, the name "Tory" was disappearing from the phraseology of Canadian politics. It began to be dropped in 1855, after the Liberals, or "Grits," as they were called, had carried to success their agitation against the clergy reserves. The new name of the Tories was "Liberal-Conservatives." The name was coined by a Tory newspaper — the *Spectator*, of Hamilton — which was convinced that there was no future in Canada for a political party living on the Bourbon Toryism of the United Empire Loyalists, or of the Family Compact, hopelessly struggling for ascendancy in church and state.

[1] Cf. Porritt, "Sixty Years of Protection in Canada," 228–230.

Hamilton had been the center of the movement for the protectionist tariff of 1858. The *Spectator*, to which Isaac Buchanan, the father of what has been known in Canada since 1879 as the National Policy, was a frequent contributor, had given the new movement its energetic support. It accordingly welcomed the Cayley tariff with enthusiasm; and in expressing this welcome it acknowledged that the United Provinces were following the example of the United States.

**Father of the Canadian National Policy**

"The free traders, so called," wrote the *Spectator*, "have been worsted, and they have probably learned by this time that their nostrums are by no means palatable to the people of this country. Though this country is not, and we trust never will be, republican, its material interests are the same as those of our republican neighbors. Canada, therefore, wants no untried theory of trade and industry, seeing that we have the actual and dearly bought experience of the United States." [1]

**Following American example**

No halt in the protectionist movement followed the success of 1858. In August of that year Cayley was succeeded by Alexander Galt. The new minister of finance was a man of much force, independence, and individuality, who afterwards achieved wide fame as one of the fathers of Confederation. He was also one of the earliest and most resourceful protagonists of the movement for complete liberty for Canada to make her own commercial treaties. "Canada first," was Galt's

**Alexander Galt**

[1] *Spectator*, Hamilton, July 30, 1858.

conception of the duty of a Canadian statesman, both before and after Confederation.

**Galt's tariff of 1859**

Galt was ready and willing to concede more protection to Canadian manufacturers. He framed the tariff of 1859 with this intent; and it was this tariff that brought Galt into conflict with Newcastle, who in 1859 was again colonial secretary — this time in the Palmerston-Russell Whig administration of 1859–1866.

**Governor-general's helplessness**

Elgin had retired in 1854. He had been succeeded by Sir Edmund Walker Head. In forwarding the new tariff to the colonial office, Head expressed regret at its protectionist features. "But," he added, "I must necessarily leave the representatives of the people in parliament to adopt the mode of raising supplies which they believe to be the most beneficial to the constituencies."

**Galt's challenge to free traders in England**

Galt had anticipated that he would come into conflict with the free trade government at Whitehall over the new tariff. This may be inferred from the speech in which he introduced his bill to the assembly in March, 1859.

> The policy pursued with regard to taxation in this country — he then said — has been objected to in England. But I am perfectly certain that this house will never permit any other body to interfere with its proper right to determine what shall be the amount and mode in which taxes shall be put upon the people. Canada has adopted the protective policy; and it is scarcely fair for parties in England to criticize our policy, when in point of fact the greater part of our debt was incurred when they had a protective policy in England.[1]

[1] *Globe*, Toronto, March 14, 1859.

Protests by British manufacturers

British manufacturers promptly and energetically protested to the colonial office against the increased duties in the Galt tariff, especially against increases in the iron and steel schedule, which, as they asserted, would divert much of the trade of Sheffield with the United Provinces to the United States.

Newcastle supports the British manufacturers

Newcastle was a free trader. He had supported Peel in 1846 when, as Earl of Lincoln, he was a member of the house of commons. His sympathies were consequently with the protesting manufacturers. In principle he was opposed to the upbuilding of a protectionist system in Canada. This he made clear to the governor-general in a dispatch dated August 13, 1859. But, as will be recalled, Newcastle had taken a prominent part in creating the democratic constitution then in operation in the United Provinces, and political conditions in Canada were well in mind when he wrote his dispatch to Head.

Newcastle helpless

> Whenever the authenticated act of the Canadian parliament on this subject arrives — he wrote, concerning the Galt tariff bill — I may probably feel that I can take no other course than signify to you the Queen's assent to it, notwithstanding the objections raised against the law in this country. But I consider it my duty, no less to the colony than to the mother country, to express my regret that the experience of England, which has fully proved the injurious effect of the protective system, and the advantage of low duties upon manufactures, should be lost sight of, and that such an act as the present should have been passed.[1]

[1] Egerton and Grant, 348–349.

Galt's defense of the new fiscal policy

Galt, through the governor-general, then as now the medium of communication between the cabinet and the colonial office, replied to Newcastle on October 25, 1859. He replied in a memorandum, approved by the cabinet at Quebec, which among state papers of the nineteenth century concerning colonies that are now of the dominions, ranks second only to Durham's Report of 1838.

Fiscal freedom a right of the Canadian people

The paragraphs of importance in this study of the evolution of the Dominion of Canada are three in number. "Respect to the imperial government," wrote Galt, in the first of these paragraphs — a paragraph in which he stated what he conceived were the rights of the government of the United Provinces under the written and unwritten constitution of 1840—

> must always dictate the desire to satisfy them that the policy of this country is neither hastily nor unwisely formed, and that due regard is had to the interests of the mother country as well as of the province. But the government of Canada, acting for its legislature and people, cannot through those feelings of deference which they owe to the imperial authorities, in any measure waive or diminish the right of the people of Canada to decide for themselves both as to the mode and extent to which taxation shall be imposed.

Provincial government responsible only to the people of Canada

> The provincial ministry — Galt assured Newcastle — are at all times ready to afford explanations in regard to acts of the legislature to which they are party, but subject to their duty and allegiance to her majesty, their responsibility in all general questions of policy must be to the provincial parliament, by whose confidence they administer the affairs of the country. And in the imposition of taxation it is so plainly

necessary that the administration and the people be in accord, that the former cannot admit responsibility or require approval beyond that of the local legislature.

**Galt's conception of colonial autonomy**

Self-government — reads the second of these paragraphs — would be utterly annihilated if the views of the imperial government were to be preferred to those of the people of Canada. It is, therefore, the duty of the present government distinctly to affirm the right of the Canadian legislature to adjust the taxation of the people in the way they deem best — even if it should unfortunately happen to meet with the disapproval of the imperial ministry. Her majesty cannot be advised to disallow such acts unless her advisers are prepared to assume the administration of the affairs of the colony, irrespective of the views of its inhabitants.

**Relations of the imperial government with the province**

The imperial government — wrote Galt, in the third paragraph of his historic memorandum — are not responsible for the debts and engagements of Canada. They do not maintain its judicial, educational, or civil services. They contribute nothing to the internal government of the country; and the provincial legislature, acting through a ministry directly responsible to it, has to make provision for all these wants. They must necessarily claim and exercise the widest latitude as to the nature and extent of the burdens to be placed upon the industry of the people. The provincial government believes that his grace must share their conviction on this important subject; but as serious evils would have resulted had his grace taken a different course, it is wiser to prevent future complications by distinctly stating the position that must be maintained by every Canadian administration.[1]

After Great Britain had conceded responsible government to all the British North American provinces, and had also adopted free trade, there were at least two instances in which the colonial

[1] Egerton and Grant, 349–351.

Colonial office interference with colonial fiscal policies

office had interfered with the fiscal policies of colonies with responsible government. The legislature of New Brunswick in 1848 had passed a bill under which bounties were to be paid to encourage the cultivation of hemp. At Charlottetown in 1852 the legislature of Prince Edward Island passed a bill under which bounties were to be paid to fishermen to offset the competition the island fishermen were then meeting from the bounty-aided fishermen of New England. Both these laws were disallowed by the government at Westminster.[1]

Endangering the reciprocity treaty with the United States

It would have been possible, moreover, for Newcastle to have objected to the tariff of the United Provinces of 1859 on the ground that it endangered the treaty of reciprocity with the United States, which was then in force, a treaty for which the British government was responsible; and also on the ground that it was injurious to the empire at large.

Injury to the empire at large

The second of these objections could easily have been lodged against the new tariff, because, as will be recalled, after the conflict over the rebellion losses bill of 1849 the principle adopted at the colonial office in regard to colonies with responsible government was that Great Britain "has no interest whatever in exercising any greater influence in the internal affairs of the colonies than is indispensable, either for the purpose of preventing any one colony from

[1] Cf. Speech by Sir John Pakington, H. C., March 4, 1853.

adopting measures injurious to another, or to the empire at large." [1]

Precedent and risks ignored

The New Brunswick and Prince Edward Island precedents were, however, not pressed into service by the colonial office at this crisis of 1859. The changes in the tariff adverse to American manufacturing interests, changes which had much to do with the denunciation of the treaty in 1865 by the United States,[2] were ignored in the correspondence between Westminster and Quebec. Nor was there any attempt to enforce the principle that a government at Whitehall had the right to interfere when legislation was pending in a colony that was injurious to other colonies or to the empire at large.

Interests of the maritime provinces

The Cayley and Galt tariffs directly endangered no interest of the maritime provinces, because, except for a little coal from Sydney, Nova Scotia, none of the provinces "down by the sea" marketed any of its products in Lower or Upper Canada. But these tariffs of 1858–1859 did endanger the reciprocity treaty, in which New Brunswick, Nova Scotia, and Prince Edward Island had as large an interest as the United Provinces.

The tariffs were also distinctly adverse to the iron and steel, textile and leather industries of the United Kingdom. They came, moreover, as a shock to both British statesmen and British

[1] Cf. Earl Grey, "The Colonial Policy of Lord John Russell's Administration," I, 17.

[2] Cf. Porritt, "Sixty Years of Protection in Canada," 142–144.

A shock to British statesmen and British commercial interests

commercial and manufacturing interests; for it had never been conceived in England in 1846, when protection and the old commercial policy of the empire — the protectionist tariff and the old navigation code — were abandoned, that British colonies would dream of imposing protective duties on imports from the United Kingdom.

No alternative open to Newcastle

Newcastle and the Whig government at Westminster were confronted with the fact that responsible government had been established in the United Provinces for ten years, and that Galt's memorandum left them no alternative, unless they were prepared to establish military rule in the United Provinces, and in the colonies that followed the example of Canada.

Charter of the fiscal freedom of the dominions

The royal assent, as Newcastle's dispatch to the governor-general of August 13 had foreshadowed, was not withheld. The tariff bill became a law; and Galt's memorandum of October 25, 1859, became the charter of fiscal freedom of the colonies with responsible government. It became, in fact, part of the unwritten constitution of the oversea dominions.

Other colonies follow the example of the United Provinces

Nova Scotia, New Brunswick, and Prince Edward Island in the years from 1859 to Confederation did not follow the example of the United Provinces. These provinces had then no manufacturing industries to protect. Newfoundland has never had a protective tariff. But Victoria adopted protection in 1864; New South Wales in 1865; British Columbia in 1867; New Zealand

in 1881; South Australia in 1882; and until the British preference was embodied in the Canadian tariff of 1897 not a single colony had enacted any preference for imports from the United Kingdom or for the sister colonies. Into all British colonies, from 1846 to 1897, manufactures from the United States were admitted on exactly the same terms as manufactures from the United Kingdom.

Last of a series of concessions

The concession by Great Britain to the United Provinces of the right to make their own tariffs was the last of a long series of concessions that began in 1841, after responsible government had been established as the result of the liberal policy of Sydenham and of the democratic spirit in which he interpreted his instructions from the colonial office.

## XIV. *A Nation Created out of Two Backwoods Provinces*

Political conditions in the United Provinces

Political conditions in the United Provinces were at no time ideal. There was intense bitterness in the political life of Upper Canada until the clergy reserves question was settled in 1854, and the influence of the Family Compact was eradicated in 1859–60. Corruption in connection with railway legislation and railway subsidies and bonds was abounding.[1] There was much friction and jealousy

[1] A detailed description of some of these conditions is embodied in a report of 115 pages from a select committee of the legislative council — a committee that in 1855 investigated charges made against Francis Hincks, premier of the United Provinces from 1851 to 1854.

between Upper and Lower Canada over the demand of Upper Canada for representation based on population. There was, in fact, such friction, and such instability of government arising from the system of ministries with double heads and double majorities, that a federal union instead of the legislative union of 1840 had become inevitable as early as 1856.

**Corruption, political heelers, and predatory interests**

Elections to the legislative assembly were characterized by bribery, corruption, and most of the artifices of the political boss. Speakers of the assembly were sometimes partisan. Sharp and discreditable manoeuvers in constitutional practice were resorted to by at least one hard-pressed ministry. The civil service was recruited from political heelers, with little regard for economy or efficiency; and special interests, intent on using the constitutional machinery of taxation for their own advantage, promptly entrenched themselves in the tariffs enacted after 1858.

**Developments due to local conditions**

After the numerous amendments to the constitution of 1840 made by the imperial parliament between 1847 and 1854, not one of these evils was inherent in the system of government — in the constitutional machinery created either by parliament at Westminster or by the legislature of the United Provinces. Nor were they due, directly or indirectly, to any influence or control exercised by the colonial office. They were all developed by local as distinct from constitutional conditions; and after the sweeping amendments

made at Westminster in 1854, it was easily within the power of the legislature to remedy or eradicate them all.

A democratic political civilization

Despite the friction between Lower and Upper Canada, and despite these blemishes, a political civilization extremely democratic in character was created between 1840 and 1867. With the political and constitutional opportunities that were afforded by Great Britain to all the British North American provinces in those years, the legislature and the statesmen of the United Provinces, aided by governors-general such as Sydenham, Bagot, Elgin, Head, and Monck, created a nation out of two backwoods provinces.

A governor-general's survey of the achievements of 1840-1867

"You can mark during that period," said Monck,[1] in his farewell address to the last legislature of the United Provinces, "the firm consolidation of your institutions, both political and municipal. You can mark the extended settlement of your country, the development of your internal resources and foreign trade, the improvement and simplification of your laws, and above all the education which the adoption of the system of responsible government has afforded to your statesmen in the well-tried ways of the British constitution." [2]

There was, it can be added, no exaggeration or overstatement in these farewell words of the last governor-general of the United Provinces.

[1] Governor-general from 1861 to 1867.

[2] Journals of the Legislative Council, August 15, 1866.

# CHAPTER VI

## THE INFLUENCES AND FORCES THAT BROUGHT ABOUT CONFEDERATION

**Canadian, British, and American influences**

FOUR distinct and easily traceable influences worked to bring about Confederation and the enactment of the British North America act — the constitution of the Dominion — by the imperial parliament in 1867. Two of these influences were at work in Canada. The first of them was operative in the United Provinces; the second in the Maritime Provinces. The third influence was potent at Westminster; and the fourth, which affected political conditions both in Canada and at Westminster, but especially at Westminster, was American.

**Example and fear of United States**

The American influence was developed partly out of the example of the United States, and partly, it must be conceded, out of fear of the United States. The example of the United States — the success of the federal system — stimulated the movement for confederation in the United Provinces.[1] Apprehension in England concerning the attitude of the United States towards British North America, especially during and at the close of the civil war of 1861–1865,

[1] Cf. Mackenzie, 342.

greatly strengthened the influences at Westminster that were favorable to any workable plan for a union of all the provinces under British rule from the Atlantic to the Pacific coast.[1]

Union of maritime provinces contemplated in 1863–1864

In the Maritime Provinces the influence that worked for a confederation of the British North American provinces was the fact that in 1863–1864 the Maritime Provinces, which then had many interests in common, and scarcely any that were antagonistic, were contemplating a legislative union.

Failure of legislative union of Upper and Lower Canada

All these influences were at work from 1861 to 1867. Two had been in existence and operating from 1858; for in that year it was shown unmistakably that the legislative union of Upper and Lower Canada was a failure as far as Upper Canada was concerned; and there was also an intimation in the speech from the throne, in the house of lords, at Westminster, that the imperial government would welcome a union of all the British North American provinces.

## I. *The Origin of the Confederation Idea*

Confederation suggested in 1783

If Great Britain was to retain the half of the North American continent that remained to her after the American revolution, Confederation was inevitable as soon as the peace of Versailles was signed. It was urged, in fact, as early as

[1] Cf. Debates on British North America Act, H. L., February 27, March 4, also Queen's speech at end of session, August 21, 1867.

1783 by Colonel Moore, a government engineer, who under instructions from Guy Carleton, governor of Quebec, reported on the resources and defenses of Nova Scotia and New Brunswick.

**A confederated Canada as a rival to United States**

Moore recommended the union of the Maritime Provinces with the territory out of which in 1791 Lower and Upper Canada were carved. He urged that by the establishment of uniform government and laws, intercourse and mutual interests would be created; that "a great country may yet be raised up in America"; and that "only by union was there any likelihood of saving what remained to Great Britain upon the continent of America, and of building up a formidable rival to the American states." [1]

**Credit accorded to Moore**

All that is known of Moore is that he was a military engineer, and that he wrote this report in 1783; but Canadian historians credit him with having been the first Englishman to conceive of a great Canadian confederation, such as came into being between Dominion Day, 1867, and the great war.

**A suggestion from parliament in 1837**

A little more than half a century after Moore dreamed his dream, the house of commons at Westminster in 1837 adopted a resolution in which was emphasized the need of some arrangement between the Maritime Provinces and Lower and Upper Canada for the joint regulation and adjustment of interests that were common to all the British North American provinces.[2]

[1] Cf. Boyd, 173.

[2] Cf. Mackenzie, 339.

Durham's scheme of 1838

Durham in his report of 1838 recommended that the bill for the union of Lower and Upper Canada "should contain provisions by which any or all of the other North American colonies may, on application of the legislature, with the consent of the two Canadas, or their united legislature, be admitted into the union on such terms as may be agreed on between them."

An Upper Canada plea for confederation in 1851

The idea of a union of all the British North American provinces was thus much older than the yoking of Lower and Upper Canada in 1840; and this union of two provinces, with nearly as many interests which were sharply antagonistic as interests which they had in common, had been in existence for only a single decade when an Upper Canadian member of the legislative assembly — Merritt, of Lincoln — asked the house to agree to an address to the crown for a constitutional convention to consider a federal union. This was in 1851, before the under-representation of Upper Canada in the legislative assembly had become a grievance with Canadians west of the Ottawa River, and only seven members voted with Merritt.

## II. *Popular Dissatisfaction in Upper Canada with the Union of 1840*

Census of 1851

It was the census of 1851 that revealed that Upper Canada was inadequately represented in the legislative assembly. Experience of the working of legislative union showed that through

indirect taxation by which the revenues were raised, and also through the difference in social habits and requirements of the people of Upper Canada and of the habitants of the French province, Upper Canada was paying three-fourths of the expenditures of the United Provinces.

**Upper Canada demands a larger representation**

With the revelation of these facts there began the movement of Upper Canada for a representative system based on population. After the sweeping and radical amendments made in 1854 at Westminster to the constitution of 1840, it was within the power of the legislature to remedy this grievance, and to increase the representation of Upper Canada in the legislative assembly.

**French Canada prevents a redistribution of seats**

French Canada was, however, well aware of two facts in the history of the act of union of 1840. It knew that the assigning to Upper Canada of as many representatives in the legislative assembly and the legislative council as were assigned to Lower Canada was done to give the population of British origin in the United Provinces a preponderating influence in the legislature and the government. Canadians of British origin were to have this ascendancy, although from 1830 to 1840 the population of Upper Canada was much less than that of Lower Canada.

**Safeguards for Upper Canada that became a boomerang**

French Canada also knew that the clause in the act of union making it impossible to vary the apportionment of members in the assembly, except by a two-thirds vote of both the assembly

and the council, was intended to safeguard the representation as determined at the union.

Lower Canada and claims of Upper Canada

The leaders of French-Canadians in the legislature could not gainsay the census statistics of 1851. Nor could it be denied that the larger part of the revenue was paid by Upper Canada. But French-Canadians refused to concede the claim of Upper Canada for a larger representation in the legislature; and nothing short of another rebellion, and another intervention by the imperial government similar to that of 1837–1840, could have remedied the grievance of Upper Canada, had not French Canada, as time went on, become willing to consider a federal union, with a legislature for each province, charged with the administration of exclusively provincial business.

French Canada blocks taking over of Hudson Bay Company territory

No appeal for representation by population moved French Canada as long as the union of 1840 continued. French-Canadian leaders, moreover, were so determined that nothing should endanger the position of their people in the legislature, that for some years they blocked all proposals for taking over the territory of the Hudson Bay Company by the government of the United Provinces, lest its settlement and development should add to the political power of Upper Canada.[1]

[1] Cf. Mackenzie, 102.

## III. *Imperial Aspects of Confederation*

**An imperial interest endangered**

At this point the difficulties between Upper and Lower Canada on the question of representation in the legislature touched an important imperial interest; for the imperial government at this time was much concerned about the future of the vast stretch of country lying between the western boundary of Upper Canada and the Rocky Mountains.

Population was pouring into the northwestern states. Settlement was coming near the boundary line that divides these states today from Manitoba and Saskatchewan; and Great Britain was nervous lest American settlement might push into the uninhabited prairie country of Canada, and lest international complications might ensue.[1]

If the United Provinces would not, or could not, take over responsibility for the government and settlement of the Hudson Bay Company's territory, its settlement presented a new and difficult problem for the colonial office; and it was for this reason, among others, that in 1864–1866 the government at Westminster extended such a welcome hand to statesmen from Canada with proposals for a confederation of the British North American provinces.

Old as were the suggestions for confederation, there were great difficulties to be overcome before

[1] Cf. Speech by Earl of Carnarvon, H. L., February 19, 1867.

the dreams of Moore, Durham and Merritt could be realized. Several decades might have passed before the Dominion of Canada came into being, had it not been for the failure in some important aspects of the union of 1840, and for the civil war in the United States.

Civil war in United States

The civil war, and the international difficulties it developed, raised apprehensions at Toronto, Quebec, and Ottawa, and above all at Westminster, concerning the defense of the British North American provinces.[1] Resulting from the civil war there came threats from Washington — threats made good in 1865 — of the denunciation of the reciprocity treaty of 1854. There were also threats, which were not made good, of abrogating the article in the convention of 1818 — an article which Great Britain had rigidly insisted on at the time the convention was made — which interdicted the maintenance of vessels of war on the Great Lakes, and of ending the bonding privileges which so greatly facilitated transport by the railways and on the Great Lakes.

End of reciprocity treaty

There was, moreover, the isolation of British Columbia, and its partial dependence for transport facilities on San Francisco; and there was the danger, which has already been alluded to, that American settlers in the northwestern states might look with covetous eyes on the splendid

Isolation of British Columbia

[1] Cf. Buckle, "The Life of Benjamin Disraeli, Earl of Beaconsfield," IV, 475.

grain-growing and ranching country in the territory between the Lake of the Woods and the eastern foothills of the Rocky Mountains.

**Hudson Bay Company's tenure of power**

The only governing power until 1869 in the territory out of which since 1871 there have been organized the provinces of Manitoba, Saskatchewan, and Alberta was the Hudson Bay Company. Its tenure of authority had long been wearing thin. The British government dreaded any large inroad of Americans into the country before it should be taken over by a Canadian government, and adequately organized for defense and civil administration.

**Conditions that affected all provinces**

Upper Canada had no practical concern over the isolation of British Columbia. That was an unfortunate condition that troubled only the English settlers in the Pacific coast province and the colonial office at Westminster. But Upper Canada was greatly interested in the almost uninhabited regions beyond its western boundary line. It was also practically interested in the bonding question; and Upper Canada, Lower Canada, and the Maritime Provinces were directly interested in the defense of the British North American provinces, and in the disturbing economic changes that would result from the denunciation by the United States of the Elgin-Marcy treaty.

**Deadlock in United Provinces**

All these conditions, as well as the movement in the Maritime Provinces in the early sixties for a legislative union, made for Confederation.

But it was the deadlock in the United Provinces, resulting from the inadequate representation of Upper Canada and the instability of governments based on double majorities and double-headed cabinets,[1] that forced the question to the front, and from 1858 made a federal union of Upper and Lower Canada, or a union including all the British North American provinces, the dominant issue in Canadian politics.

**Galt pushes Confederation to the front**

There were many fathers of Confederation.[2] Thirty-three statesmen of the United Provinces, the Maritime Provinces, and Newfoundland were of the constitutional conventions at Charlottetown and Quebec in 1864 at which the Dominion was created. But it was Alexander Tulloch Galt — Galt of the epoch-making correspondence with Newcastle over the tariffs of 1858 and 1859 — who first pushed the idea of Confederation into the realm of practical politics at Toronto and Quebec and also at Westminster.

**His fear of absorption of provinces by United States**

In the session of 1858, before he succeeded Cayley as minister of finance, Galt outlined a plan for federal union in a speech in the legislative

[1] Cf. Francis J. Audet, "Canadian Dates and Events — 1492–1915," 105.

[2] "Confederation will stand for all time as the monument of the work accomplished by the devotion, the unselfishness, and the far-sighted vision of those men whom we are all proud to call the fathers of federation. To these men and their work we owe a debt which we can never repay." — The Duke of Devonshire, governor-general of Canada, at the dedication of the new parliament house, at Ottawa, July 2, 1917.

assembly — a speech in which he declared, with characteristic outspokenness, that unless such a union were effected, the British North American provinces would ultimately drift into the United States.[1]

**Attitude of imperial government**

Edmund Walker Head, Elgin's successor as governor-general, did all in his power to forward the scheme Galt had outlined on July 6, 1858; and the first intimation to the world at large that the imperial government was coming into the discussion of Confederation was an announcement in the speech from the throne in the legislative council of the United Provinces, at the end of the session of 1858, that the Maritime Provinces and the imperial government, were about to be invited to discuss, with representatives of the United Provinces, the principles on which a "bond of a federal character, uniting the provinces of British North America, may perhaps hereafter be practicable." [2]

## IV. *An Appeal to Whitehall*

**Confederation a question for provinces themselves**

In the interval between the end of the session of 1858 and the beginning of that of 1859, Galt and Cartier were at Whitehall in the interest of the new movement. Representatives of the Maritime Provinces had been at the colonial office in the previous year, in the interest of a union of these provinces. They had been told by Labouchere, secretary for the colonies in the

[1] Cf. Boyd, 174. [2] *Ibid.*, 175.

Palmerston administration of 1855–1858, that union was a question for the provinces themselves, and that no obstacles would be thrown in their way by the imperial government.

Bulwer Lytton as colonial secretary

In October, 1858, when Galt and Cartier were in London, the Derby administration of 1858–1859 was in power, with Bulwer Lytton as colonial secretary. It was Bulwer Lytton who piloted the act creating representative government for British Columbia through the house of commons. It was Bulwer Lytton also who was responsible for the paragraph in the Queen's speech at the end of the session of 1858 expressing the hope that the new colony on the Pacific coast would be but one step in the process by which the British dominions in North America might be peopled in an unbroken chain from the Atlantic to the Pacific by a loyal population of subjects of the British crown.

Case for Confederation

Galt and Cartier laid the case for Confederation before Bulwer Lytton in a memorandum dated October 23, 1858 — one of the really important documents in the constitutional history of the Dominion. The act of union of 1840 and its provisions regarding representation in the legislative assembly were recalled. The colonial secretary was reminded that in 1840 Lower Canada possessed a much larger population than Upper Canada, and that in the first decade of the union representation as determined by the act had led to no difficulties.

**Conflict between Upper and Lower Canada**

But since that period — continued the memorandum — the growth of population has been more rapid in the western section — in Upper Canada — and claims are now made on behalf of its inhabitants for giving them representation in the legislature in proportion to their numbers. These claims, involving, it is believed, a most serious interference with the principles on which union was based, have been and are being strenuously resisted by Lower Canada. The result is shown by an agitation fraught with great danger to the peaceful and harmonious working of our constitutional system, and consequently detrimental to the progress of the provinces.

**Only one remedy**

The necessity of providing a remedy for a state of things that is yearly becoming worse, and of allaying feelings that are being daily aggravated by the contentions of political parties — continued the memorandum — has impressed the advisers of her majesty's representative in Canada with the importance of seeking for such a mode of dealing with these difficulties as may forever remove them. In this view it has appeared to them advisable to consider how far the union of Lower with Upper Canada could be rendered essentially federative in combination with the provinces of New Brunswick, Nova Scotia, and Prince Edward Island, together with such other territories as it may be desirable to incorporate with confederation from the possessions of the crown in British North America.[1]

**Relations of Maritime Provinces and United Provinces**

The interests that the Maritime Provinces then shared with the United Provinces were only those that arose out of the fact that all five provinces were on the same continent, and were under the same crown. Otherwise the United Provinces and the "provinces down by the sea" stood to each other almost in the relation of foreign states.

[1] Boyd, 176.

Tariffs and currency

Hostile customs houses guarded their frontiers. Tariffs for protection in the United Provinces, and tariffs for revenue in New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland, choked the channels of intercolonial trade. There was no uniformity in banking. There was no common system of weights and measures; and there was no identity of postal service. The currency differed. The sovereign and the American dollar were legal tender in the United Provinces. British and American coins were also current in New Brunswick. In Nova Scotia, Peruvian, Mexican, and Columbian dollars were legal tender; while in Prince Edward Island the complexity of current moneys and of their relative values was even greater.[1]

Progress of British North America retarded

In the Galt and Cartier memorial, Bulwer Lytton, the colonial secretary, was reminded of these conditions. He was reminded that each colony was distinct in government, customs, industries, and legislation.

> To each other — continued the memorandum — no greater facilities are extended than to any foreign state, and the only common tie is that which binds all to the British crown. This state of things is considered neither promotive of the physical prosperity of all, nor of that moral union which ought to be possessed in the presence of the powerful confederation of the United States.

[1] Cf. Speech by Earl of Carnarvon, H. L., February 19, 1867.

## V. *Dread of Annexation by the United States*

Attitude of Galt and Cartier towards United States

Galt, in his speech in the legislative assembly in 1858, had urged confederation to ward off annexation. Cartier had no admiration of American political institutions. He never concealed his dislike of them;[1] and the attitude of Galt and Cartier towards the United States is expressed in the memorandum of October 13. "It is in the power of the imperial government by sanctioning a confederation of these provinces," they wrote, "to constitute a dependency of the empire, valuable in time of peace and powerful in the event of war, forever removing the fear that these colonies may ultimately serve to swell the power of another nation."[2]

A convention proposed

The request to the colonial secretary was that the British government would authorize a convention of delegates from the Maritime Provinces and the United Provinces to consider a federative union — the convention to report on the principles on which such a union might properly be based.

New Brunswick and Prince Edward Island hold aloof

Only Nova Scotia and Newfoundland had shown any active interest in the movement in 1857 for a union of the Maritime Provinces. Bulwer Lytton communicated this fact to the representatives of the United Provinces. "We think," he added, "that we should be wanting in

[1] Cf. Boyd, 356–357. [2] *Ibid.*, 177.

proper consideration for those governments if we were to authorize, without previous knowledge of their views, a meeting of delegates from the executive councils, and thus commit them to preliminary steps towards the settlement of a momentous question of which they have not yet signified their assent to the principle."

Government of United Provinces makes first move

The colonial secretary communicated the views of the United Provinces to the governments at Fredericton, Halifax, Charlottetown, and St. John's; and when Galt and Cartier returned to Quebec in the winter of 1858, the cabinet of the United Provinces also put itself in communication with these governments, and invited them to take such action as they deemed expedient. Nothing immediate resulted from these communications; but they gave an impetus to the movement, and they were the first practical steps in the direction of Confederation.

A less ambitious scheme than Confederation

The next year, 1859, the Liberals of Upper Canada held a convention at Toronto which was attended by 570 delegates. Confederation was discussed; but the outlook for a comprehensive scheme was then so unpromising that the convention decided that the most practical and immediate remedy for the constitutional grievances of Upper Canada was the organization of two local governments, and the creation of a joint authority to control interests common to Upper and Lower Canada.

Brown, the leader of the Liberals of Upper

Canada,[1] formulated this plan in the session of the legislature of 1860. He submitted two resolutions. One declared that the union of 1840 was a failure, that it had resulted in great political abuses and universal dissatisfaction. The other called for an end to the legislative union, and the organization of the two provinces on the lines urged at the Toronto convention of September, 1859. Both resolutions were defeated by large majorities, and in 1860 no progress towards confederation or towards redress of the grievances of Upper Canada was apparent.

[1] "George Brown was loved by many people who never saw his face, nor heard his voice. Back in the townships, where the *Globe* carried its weekly message, he had the authority of a prophet. He created the Liberal party of Upper Canada, as Sir Wilfred Laurier has fashioned the Liberal party of to-day." — Sir John Willison, "Some Political Leaders in the Canadian Federation," in "The Federation of Canada — 1867–1917," p. 54.

## CHAPTER VII

### THE QUEBEC CONVENTION AND THE BRITISH NORTH AMERICA ACT

A coalition government pledged to Confederation

THERE was a general election in the United Provinces in 1861. It resulted in the overthrow of the Cartier-Macdonald government. But in the years from 1861 to 1864 there was instability of political conditions in the United Provinces that was without precedent in the English-speaking world. There were three governments in this short period; and in June, 1864, a deadlock would have ensued had not Brown [1] and the Liberals supported the Tache-Macdonald administration in return for a guarantee for the settlement of the constitutional difficulty.

[1] "Brown was leader of the Clear Grit party, and second to Macdonald (if to him) in personal influence." — Riddell, "Constitution of Canada," Note xxii, 49. "Dunkin, a member of the legislature from Broome, said that the attempt to overcome the deadlock by the scheme of Confederation reminded him of the two boys who upset the canoe. Tom said, 'Bill, can you pray?' Bill admitted that he could not think of any prayer that was suitable to the occasion. Tom's rejoinder, according to Dunkin, was earnest, but not parliamentary. He said, 'Well, something has to be done, and that — soon.'" — Willison, "Some Political Leaders in the Canadian Federation," 51.

Or end legislative union of 1840

A coalition government was formed, with Brown and two of his colleagues of the Liberal party as members of the cabinet. It was a coalition based on a written agreement that (1) the government would address themselves to the negotiations for a confederation of the British North American provinces; and (2) in the event of failure in this undertaking, they would introduce, in the next legislative session, the federal principle for the United Provinces alone, "coupled with such provisions as would permit the Maritime Provinces to be hereafter incorporated into the Canadian system." [1]

Question of union of Maritime Provinces revived

It was in June, 1864, that this great forward step was taken. Earlier in the year the proposals of 1857 for a legislative union of the Maritime Provinces had been revived. The legislatures of New Brunswick, Nova Scotia, and Prince Edward Island passed resolutions authorizing their governments to send representatives to a convention to be held at Charlottetown in September, 1864. Charles Tupper, at this time a doctor at Amherst, Nova Scotia, but from 1864 to 1901 one of the foremost Canadian statesmen, was the leading spirit in the union movement in the Maritime Provinces.[2]

[1] Mackenzie, 90.

[2] "Tupper was bold, confident, dominant. He never knew the call to retreat. He had courage for any combat and resource for any emergency. History will find and point out blemishes in the public career of Sir Charles

Charlottetown convention

The Charlottetown convention met on September 1. The government of the United Provinces, without waiting for an invitation, sent a delegation to Charlottetown to urge a confederation of all the British provinces. The delegation was cordially received, and the result was a second convention held at Quebec in October.

Quebec Convention

All the provinces, including Newfoundland, were represented at Quebec. The convention was in session behind closed doors from October 10 to October 28.[1] It agreed on a federal as distinct from a legislative union; and from the historic Quebec convention, the first constitutional convention in the history of the British Empire, with the exception of the conventions that preceded the union of England and Scotland in 1707, were issued the famous seventy-four confederation resolutions.

Tupper, but he gave the state physical vigour, intellectual power, and constructive energy. As for the rest, 'his greatness, not his littleness, concerns mankind.'" — Willison, "Some Political Leaders in the Canadian Federation," 59.

[1] Correspondents representing Canadian, British and American newspapers assembled at Quebec to report the proceedings of the convention. In answer to a memorial for facilities for reporting the correspondents were told, in a letter from the secretary, H. Bernard, that no communications of the proceedings of the convention could be made until the delegates were enabled definitely to report the issue of their deliberations to the governments of the respective provinces. — Joseph Pope, "Confederation Documents," 11.

British North America act

These resolutions having been adopted by the legislatures of the United Provinces, Nova Scotia, and New Brunswick,[1] they were embodied in the British North America act which was passed by the imperial parliament. The act received the royal assent on March 29, and the Dominion came into existence on July 1, 1867.

Kingdom or Dominion

There are 145 sections and five schedules in the British North America act. The act was the creation of the statesmen of the British North American provinces, with few suggestions and little help from the colonial office or the imperial parliament. There were statesmen in British North America — John Alexander Macdonald, in particular — who would have liked to give to the new confederation the title of the Kingdom of Canada. But Lord Derby, who was premier of the Conservative administration of 1866–1868 that carried the act through parliament, was careful of the susceptibilities of the United States, and suggested Dominion instead of Kingdom.

## I. *American Opposition to Confederation*

Opposition in the United States to Confederation

In 1866–67 the acutely disturbing contention over the compensation demanded by the United States from Great Britain for the losses sustained

[1] Newfoundland and Prince Edward Island withdrew from the negotiations after the Quebec conference, although Prince Edward Island came into confederation in 1873.

by American shipping and trade from the depredations of the *Alabama*, a cruiser built at Birkenhead, for the government of the confederate states, had not been settled. There was, moreover, some opposition to Confederation in the United States, particularly at Augusta, the capital of Maine, and also in the senate and house of representatives at Washington.

**Alarm at Augusta, Maine**

The legislature of Maine adopted, and transmitted to Washington, resolutions originating with the federal relations committee of the assembly, in which Confederation was condemned on the ground that it would establish monarchical government on the North American continent. In its alarm the legislature at Augusta overlooked the fact that a legislature, organized under the monarchical system, had existed in Nova Scotia for more than a century before the Charlottetown and Quebec conventions of 1864; and that in 1867 there were no fewer than five legislatures on the North American continent that were opened and closed with speeches from the throne.

**Republican principles and institutions**

The preamble to the Augusta resolutions disclaimed any desire to accelerate the progress of republican principles in the British North American provinces. The conviction was expressed that "republican institutions should never be assumed by any people until the whole population has been inured to habits of self-government, and thoroughly imbued with the

principle of implicit obedience to law, whenever that law is the declared will of a majority."

**Objection to monarchical government**

The first resolution declared that "any attempt on the part of the imperial government of Great Britain to establish monarchical government in North America, or to place a viceroyalty, by act of parliament, over her several North American provinces, would be an implied infraction of those principles of government which this nation has assumed to maintain upon this continent."

**Remonstrance from Washington suggested**

By the second of these resolutions the people of Maine, "deeply interested in the preservation of peace, and of friendly relations with the people of British North America," respectfully appealed to the United States government "to interpose its legitimate influence, in friendly and earnest remonstrance with the British government, against establishing any system of government in North America the influence of which would endanger the friendly relations of the people of the British provinces with the people of the United States."

**Banks, of Massachusetts, urges action**

Copies of the resolutions were transmitted by the governor of Maine to President Johnson, and to each house of congress. In the house of representatives,[1] Banks, of Massachusetts, a former chairman of the committee on foreign affairs, and a soldier of much distinction in the civil war, called attention to the resolutions, and

[1] March 8, 1867.

made a motion demanding the immediate appointment, by the speaker, of the standing committee on foreign affairs. Urgency was pleaded "in view of events transpiring on the northern frontier," and the need for "considering the foreign relations of the United States."

A committee desired

"It is not intended," said Banks, in asking the house to adopt his motion, "to present at this time any protest against Confederation of the British provinces. The resolutions which I have read, from the state of Maine, were read merely for information. All I ask is that a committee shall be appointed, to which any instructions, in reference to this matter, may be given by the house."

"A respectful protest"

Blaine, of Maine — James Gillespie Blaine, afterwards secretary of state and candidate of the Republican party for the presidency in 1884 — deprecated any action by congress, and reminded Banks that the matter "certainly could not go beyond a mere protest." "The resolutions of the state of Maine," Blaine added, "do not contemplate any positive action. They contemplate merely a respectful protest."

The persistency of Banks

Banks, however, was persistent. His object was the immediate appointment of the committee on foreign affairs, with an instruction to consider the resolutions from Augusta, and report to the house. "This question of Confederation," he said, in answer to Blaine, "affects not alone the interests of the British provinces.

It affects our interests also; and it is certainly proper that its effects upon the interest of this country should be considered. At least we should have an organized committee that shall have power to consider its bearing upon our interests, whether it be for the purpose of making a protest or for more decided action. It is necessary that we should ascertain the full effect of this measure when consummated, and that it should be understood."

Had the committee been named, Banks would probably have resumed the position of chairman, and as such would have been charged with the duty of drawing up the report, if the Augusta resolutions had been sent to the committee with an instruction.

**A futile movement in the senate**

The house, however, took no action in the direction desired by Banks; and in the senate[1] an attempt made by Simon Cameron, of Pennsylvania, was equally futile. Cameron was desirous that the committee on foreign relations should be instructed (1) to inquire "upon the facts in respect to the design of foreign powers to impose their systems of monarchical government upon the people of this continent;" and (2) to report "what action, if any, our government should take to avert the inevitable consequences of the further prosecution of such designs, and to maintain for ourselves and for our posterity the fundamental principles and objects of the

[1] March 9.

original settlers of our country and the founders of the republic."

Cameron also desired that the committee should be "authorized and empowered to take such measures as they may judge expedient and necessary to collect and submit the facts for the information of the government and the people."

No mention of Confederation in Johnson's annual message

Obviously the senator from Pennsylvania was anxious for a manifesto against Confederation. Few members of the senate shared Cameron's apprehensions regarding the British North America act; and no new duties were thrown upon the committee on foreign relations as a result of the resolution of which he gave notice. President Johnson, Lincoln's successor, did not even mention the Confederation of Canada in the customary survey of the foreign relations of the United States in his annual message to congress on December 3, 1867.[1]

What influenced Derby

These discussions in congress came after the British North America bill had been introduced in the house of lords, but before it had been read a third time in the house of commons. They could not have influenced Derby in offering the suggestion that the word "dominion" be substituted for "kingdom" in deference to American susceptibilities. But Derby and his son, Lord Stanley, who was secretary of state for foreign affairs, were only too well aware of

[1] Cf. *Congressional Globe*, March 8 and 9, 1867. James D. Richardson, Messages of the Presidents, VI, 558–581.

Dominion of Canada

the extreme tension over the Alabama claims, and of the outbursts it was provoking in the United States. So were the Fathers of Confederation who had carried the bill to London. They accepted the premier's suggestion made before the bill was introduced in the house of lords;[1] and when the Earl of Carnarvon, the colonial secretary, announced the title of the new Confederation to the house of lords, at second reading of the bill, he added, "It is a designation which is a graceful tribute on the part of the colonies to the monarchical principle under which they have lived and prospered, a principle which they trust to transmit unimpaired to their children's children."[2]

## II. *The Attitude of Parliament, the Colonial Office, and the People of Great Britain towards the New Dominion*

Parliament passes British North America act

There was no contention over the bill, either in the house of lords where it was introduced, or in the house of commons. It was before the house of lords only four days.[3] The house of commons spent no longer time on it.[4] Additional schedules were added by Adderley, undersecretary for the colonies, when the bill was in committee. But only one amendment — little

[1] Cf. George M. Wrong, "The Creation of the Federal System in Canada," "The Federation of Canada," 22, 23.

[2] H. L. Debates, February 19, 1867.

[3] February 19, 22, 25, 26. [4] February 27, March 4, 7, 8.

more than a parliamentary draftsman's amendment — was made to the bill. This was the only amendment made in either the lords or the commons to an act which in the Pickering edition of the British statutes extends to thirty-three closely printed pages.

No supreme court

One member of the house of commons, Roebuck, of Sheffield, regretted that the act did not create a supreme court, with functions similar to those of the supreme court at Washington. Cardwell, who had been secretary for the colonies in the Whig administration of 1859–1866, and who from the front opposition bench helped Adderley to pilot the bill through committee, answered this objection. "As matters now stand," he said, "if the legislature acted *ultra vires* the question would first be raised in the colonial law courts, and would ultimately be settled by the privy council. No doubt it was a defect. But the point had undergone consideration by the delegates, who thought it would be better to leave things in this state." [1]

[1] H. C. Debates, March 4, 1867. In the early years of Confederation, when there were many questions at issue between the dominion government and the governments of the provinces, there was a movement at Ottawa in favor of the creation of a supreme court. "It is worthy of consideration," wrote Sir John Young, governor-general from 1868 to 1869, to the Earl of Granville, then secretary of state for the colonies, "whether it would not be expedient to establish a tribunal with powers analogous to those of the supreme court of the United States, for the decision of all

**Fathers of Confederation**

Viscount Monck had succeeded Head in 1866 as governor-general. Monck, like Head, did all that was constitutionally possible to forward Confederation, and he has a distinguished place in Canadian history for his services in the crisis of 1864–1867. But the task of framing the resolutions on which the British North America act was based — the task so successfully performed at Quebec in October, 1864 — was achieved by the thirty-three men who in Canada today are always spoken of with veneration as the Fathers of Confederation.[1]

**Framers of constitution given a free hand**

There was no steering of the Quebec convention by any representative of the colonial office. About this time an act was passed by the imperial parliament empowering all legislatures in colonies with representative and responsible government to amend their constitutions as they deemed expedient. At Westminster, Confederation was regarded as a matter which concerned the British North American provinces. Consequently the

questions of constitutional law and conflict of jurisdiction." "I see no reason," wrote Granville, on May 8, 1869, "for the establishment of such a tribunal. Any question of this kind could be entertained and decided by the local courts, subject to an appeal to the judicial committee of the privy council; and it does not appear in what respect this mode of determination is likely to be inadequate or unsatisfactory." — Sessional papers of Canada, 1870, No. 35, 4–5.

[1] A complete list of the Fathers of Confederation, with the names of the provinces they represented at the Quebec convention, is given on pages 121–22 of Audet's "Canadian Historical Dates and Events."

Fathers of Confederation were given a free hand. Their mission at Quebec was to agree on a plan which would bring the provinces into union, and they went about their great task with the confident feeling that their plan would be promptly accepted by the colonial office and by parliament at Westminster.

Fathers of Confederation who rank as statesmen of the Dominion

At the Quebec convention the United Provinces were represented by twelve delegates; Nova Scotia by five; New Brunswick by seven; Prince Edward Island by seven; and Newfoundland by two. Of these thirty-three delegates, the men who achieved greatest distinction from their part in bringing about Confederation, and from their subsequent careers in the political life of the Dominion, were Alexander Tulloch Galt, George Brown, John Alexander Macdonald, and Oliver Mowat, of Ontario; George Etienne Cartier and Thomas Darcy McGee, of Quebec; Charles Tupper, of Nova Scotia; and Samuel Leonard Tilley, of New Brunswick.

No party controversy over B. N. A. act at Westminster

England watched with appreciative interest the conventions in Charlottetown and Quebec which led up to Confederation. At Westminster the British North America bill aroused no party controversies. At this time the people of the United Kingdom were engrossed by the fortunes of the bill of the Derby government extending the parliamentary franchise in the boroughs, — the first extension of the electoral franchise since 1832, — and, moreover, in 1867 the era of

popular indifference to oversea possessions had not yet come to an end.

**Popular attitude in Great Britain towards Confederation**

The popular attitude towards Confederation was well expressed by the *Times*, in its survey of the year. "India and the colonies," reads a paragraph in this survey, "have enjoyed an unbroken tranquillity. The British provinces of North America have formally assumed the title of the Dominion of Canada, and the experiment of confederation or union promises favorably. The colonial office, once the most onerous department in the imperial government, is now, in great measure, relieved of its legislative and administrative functions." [1]

**Confederation from point of view of Derby-Disraeli government**

How the creation of the Dominion was regarded by the Derby-Disraeli government may be judged from the queen's speech at the end of the session of the imperial parliament of 1867. "The act for the union of the British North American provinces," it read, "is the final accomplishment of a scheme long contemplated, whereby these colonies, now combined in the Dominion, may be expected not only to gain additional strength for the purposes of defense against external aggression, but may be united among themselves by fresh ties of mutual interest, and attached to the mother-country by the only bonds which can effectually secure important dependencies, those of loyalty to the crown and attachment to the British connection." [2]

[1] Annual Summaries Reprinted from the *Times*, I, 266.

[2] H. L. Debates, August 21, 1867.

# CHAPTER VIII

## THE DOMINION A FEDERAL UNION

Changes in political organization of provinces

CONFEDERATION involved quite important changes in political organization for the provinces which came under the terms of the British North America act — Ontario, Quebec, Nova Scotia, New Brunswick, Prince Edward Island, and British Columbia. These changes were necessary because each province had thenceforward to elect two groups of parliamentary representatives; one for the Dominion house of commons, and the other for the provincial legislature; and also because each of the provinces at Confederation ceded some of its powers to the Dominion government.

Colonial office and changes at Confederation

After Confederation the relations of the colonial office in London were only with the government at Ottawa, and not with the five provincial capitals, as in the period from 1846 to 1867. Except for this fact, and for the fact that after 1878 an end was made in practice to the reservation of bills by the governor-general,[1] it cannot be said that there was any change in the relations between the government in Canada and the imperial government at Westminster.

[1] Cf. Z. A. Lash, "The Working of Federal Institutions in Canada." — "The Federation of Canada," 80–85.

**Few new powers accrue to Dominion**

Power was given in the British North America act to the Dominion parliament to create new provinces out of the territories lying between the Great Lakes and the Rocky Mountains — a power which was exercised in 1870, when Manitoba was organized as a province,[1] and again in 1905 when Saskatchewan and Alberta were created. Otherwise it cannot be said that any additional freedom or any important new powers accrued to Canada at Confederation.

**Why few new powers**

In the period between 1841 and 1867, as has been shown in the preceding pages, the government at Whitehall had, sometimes promptly and cordially, sometimes tardily and grudgingly, conceded everything that had been asked by the United Provinces and the Maritime Provinces. It had conceded so much, and had obtained so little in return, that in September, 1866, when the Derby government was faced with the problem of the defense of the British North American provinces, Disraeli, who was then chancellor of the exchequer, deemed that the time had come for reconsidering the position of the British government in relation to these outlying portions of the empire. "We must," he wrote to Derby, "consider our Canadian position, which is most illegitimate. An army

[1] Note also an act respecting the establishment of provinces in the Dominion of Canada, which received the royal assent on June 29, 1871. — British Statutes, 34 and 35 Vict., c. 78.

maintained in a country which does not permit us even to govern it! What an anomaly!" [1]

Autonomy of provinces before Confederation

Long before Confederation the British North American provinces had secured nearly all the essentials of autonomy. They had obtained nearly all the powers they could ask or expect, if they were to remain of the British Empire and under the British crown. They all enjoyed representative and responsible government. Each since 1859 had been almost completely master of its own fiscal system, although only Ontario and Quebec had used this power to levy protective duties on imports from the United Kingdom. All, except British Columbia, had enjoyed the right of reciprocal trade with the United States, and had received from the United States, in return for adequate concessions made by the United Provinces and the Maritime Provinces, tariff concessions which were denied by the United States to Great Britain.

Partial treaty-making power exercised by provinces in 1854

The imperial government in 1850–1854 had greatly exerted itself through its minister at Washington, and through Elgin, the governor-general, to secure reciprocal trade between the United States and the United Provinces, the Maritime Provinces, and Newfoundland. But the terms and conditions of the treaty were left to the statesmen of the provinces to determine as seemed best for the interests of the provinces; and so far as the British government was con-

[1] Buckle, IV, 476.

cerned the treaty might have been continued indefinitely so long as the British provinces found reciprocity to their advantage, as they undoubtedly did from 1854 to 1866.[1]

**Fewer instructions to governors-general after 1841**

All the provinces before Confederation possessed the power to amend their constitutions as their legislatures might deem advisable. Before Confederation there had also been far-reaching modifications of the instructions given to governors-general and governors on their appointment to the capitals of the provinces. These modifications were necessary owing to the large measure of home rule enjoyed by all the provinces between 1841 and 1867.

**Fewer bills reserved**

The classes of bills that might be reserved for transmission to the colonial office before approval by the governor-general, or the governors of British Columbia, Nova Scotia, New Brunswick, and Prince Edward Island, had, in consequence of the larger measure of home rule, also been much restricted, thereby increasing the powers of the legislatures and the authority of the cabinets. There were, therefore, few new powers to be asked from the imperial government by the Fathers of Confederation.

**Powers accruing to Dominion from 1867 to 1914**

The fullness of the concessions to the old British North American provinces was made obvious by half a century's experience of the working of the British North America act.

[1] Cf. Porritt, "Sixty Years of Protection in Canada," 79–118.

From 1867 to the outbreak of the war in 1914, the imperial government was even more ready to make concessions than it had been from 1840 to Confederation. The growth and development of Canada created new needs, needs which had not existed when there were not more than two or three million people in all the British North American provinces. But in these forty-seven years — 1867 to 1914 — the Dominion had sought, had had bestowed on her, or had asserted, only six rights or powers which had not been enjoyed by the United Provinces and the Maritime Provinces between 1859 and 1867.

**Treaty-making power fully conceded in 1907**

The rights thus obtained by the Dominion between 1867 and 1914 were (1) the right to make her own tidewater coastwise navigation laws — a right first exercised in 1870;[1] (2) the right of the Dominion cabinet to veto a nomination to the office of governor-general — a right that has existed at least since 1882[2]; (3) the right of the Dominion to direct representation on the judicial committee of the privy council at Whitehall — a right first exercised in 1897, when Sir Henry Strong, then chief justice of Canada, took his seat on the judicial committee; (4) the right of the Dominion to decide whether it will be a party to treaties made by Great Britain, a right

[1] The United Provinces were conceded the right to make their own inland coastwise navigation laws in 1847.

[2] Cf. Bruce, II, 205.

enjoyed since 1872;[1] (5) the right of the Dominion to make her own immigration laws, and to exclude paupers and other undesirables from the United Kingdom or elsewhere in the British Empire — a right first asserted and exercised in 1904; and (6) the right of the Dominion to appoint her own plenipotentiaries for the negotiation of commercial treaties and conventions — a right partially conceded as early as 1870, and fully conceded by the imperial government in 1907.[2]

## I. *The Cost and Advantages of Federal Union*

**Macdonald's preference for legislative union**

The British North America act of 1867 established a federal as distinct from a legislative union. Macdonald, one of the Fathers of Confederation, who was the first premier of the

[1] At the present time the British government never negotiates a treaty without putting in a stipulation that this treaty does not apply to Canada, or any of the self-governing dominions, unless they are willing to be bound by it. — Speech by Sir Wilfred Laurier at Simcoe, Ontario, August 15, 1911.

[2] It may be briefly noted that growing out of the war, and out of the prompt and self-sacrificing part that Canada and the other oversea dominions took in the defense of the empire and of civilization, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, and the Union of South Africa were in 1916 claiming a part in formulating the foreign policy of the empire. (Cf. *Quarterly Review*, July, 1916, 266–282.) It was urged that foreign policy and imperial defense must no longer be determined by the cabinet which is chosen only from the British parliament, and maintained in power by a majority in the house of commons at Westminster.

Dominion, would have preferred a legislative union;[1] and Macdonald did not lack support for this preference in the legislature of the United Provinces. Most of the advocates of legislative union urged it on the ground of economy.

**Case for a legislative union**

Had such a union been possible, economy might have resulted; for with nine provincial legislatures, and as many provincial capitals and governments, in addition to the Dominion parliament, the Dominion government, and the Dominion capital, Canada, on the basis of its population and its normal expenditures on defence, is the most expensively governed country in the English-speaking world.

**Eastern and Western Canada**

A legislative union might have greatly hindered the development of political civilization in the newer provinces of Manitoba, Saskatchewan, and Alberta. East and west are even more accentuated in Canada — the difference is more obvious — than in the United States. As regards political thought and tendencies, a Canadian from any one of the four provinces east of the Ottawa River enters into another world when he crosses the "Bridge," and settles in rural Manitoba, Saskatchewan, or Alberta.

[1] "Federalism in 1861 had received a staggering blow by the apparent breakdown of the American union and the beginning of the civil war. This breakdown so impressed the mind of Macdonald that he despaired of Federalism, and had fixed his attention on a unitary system like that of the United Kingdom." — George M. Wrong, "The Creation of the Federal System in Canada," 14–15.

Peculiar needs of prairie provinces

A legislative union with a house of commons and senate, controlled by majorities from the five provinces east of the Great Lakes, would have been a perpetual brake on the three prairie provinces. It would have been a hindrance for these provinces, on which in the second decade of the twentieth century the material prosperity of all Canada largely depended.[1]

Taxation and police not only functions of government

During their rapid development from 1905 to 1914, the prairie provinces acted on the conviction that taxation and police are not the only functions of government. They developed policies in regard to public utilities — grain elevators, street-car lines, telephone systems, and water, light, and power undertakings — more in accord with English and Scottish precedents than with the precedents of eastern Canada or of the United States.

Federal union worth its cost to Canada

Federal union has been costly and is still costly to Canada, in view of its enormous area and its comparatively small and scattered population. Federal union has its inconveniences arising from some of the direct methods of taxation in use in the various provinces, and the lack of uniformity as regards bankruptcy, usury, and other laws directly affecting commerce. But

[1] "The creation of western Canada is the most splendid achievement of our life since 1867. The hope of that great lone land has been realized beyond expectation." — R. A. Falconer (president of the University of Toronto), "The Quality of Canadian Life," in "The Federation of Canada," 120.

no student of the political and economic and social development of Canada since 1867 — no student who can survey the various needs and economic and social characteristics of the nine provinces of the Dominion — will deny that federal union has been, and is, worth all that it has cost, that it is costing, and that it will cost. Nor will he desire that Macdonald had carried a union on the lines of his first plan and wishes.

**Legislative unions in Canada that are possible**

A legislative union might today be possible for the prairie provinces, with little interference with the federal system. A legislative union, it has long been contended, is possible for the Maritime Provinces, and such a union might be much to their advantage. But experience from 1841 to 1867, and from 1867 to the jubilee year of Confederation, has shown that a legislative union was never desirable for the Dominion.[1]

[1] In the *Mail* of Toronto, of January 6, 1880, there was a review of twelve years' working of the system of government that was established in 1867. "The local system," it read, "has been in existence only twelve years. During that time it has, on the whole, worked well. Certainly it will not be contended that the business of the province of Ontario would have been transacted as well or more cheaply by a legislative union. The bitter experiences of the political vendetta that rent Upper and Lower Canada, and made the union of 1841 a grim satire on unity, ought to satisfy every thinking man that such a form of government is not suited for a country of mixed races. It is tolerably certain, indeed, that if one parliament had to deal with the local as well as the general interests of the seven provinces, the work

## II. *The Forces against a Legislative Union*

**Quebec holds out for federal union**

However desirable legislative union might have seemed to the advocates of economy, it was a plan which in 1864–1867 could never have been carried. Quebec would hear of nothing but a federal union. The attitude of the Maritime Provinces was the same as that of Quebec. Moreover, much as British Columbia desired railway and telegraph lines from the Atlantic to the Pacific — public utilities of supreme importance politically, economically, and socially, which it could obtain only by union with eastern Canada — its political history from 1850 to 1867 warrants the assumption that the Pacific coast province, with its almost exclusively English population, and its dread of some of the political, racial, and religious conditions that had developed and become rooted in Ontario and Quebec, might have long held aloof if a legislative union had been established in 1867.

**No choice open to Fathers of Confederation**

George Brown, leader of the Liberal party of Upper Canada, told the advocates of legislative union why such a plan was not possible, when he addressed the legislative assembly of the United Provinces and asked it to indorse the resolutions of the Quebec convention of October, 1864. "We had," he said, in recalling the deliberations

would be badly done, if done at all, and the sectionalism that now curses us would become an intolerable drag on progress and a perpetual danger to the state."

of the convention, "to take federal union or drop the negotiations. Not only were our friends from Lower Canada against legislative union, but so were most of the delegates from the Maritime Provinces. There was but one choice open to us — federal union or nothing." [1]

Russell's preference for federal union

At Westminster there were tried and sincere friends of self-government in the colonies that are now of the Dominions who in 1867 would have preferred a legislative union for the Dominion of Canada. Foremost among them was Russell — Lord John Russell of the act of union of 1840. Carnarvon had these advocates of legislative union in mind when, in introducing the British North America bill to the house of lords, he came to the clause establishing federal union.

Carnarvon on federal bond

> It is true — said the colonial secretary of the Derby-Disraeli administration of 1866–1868 — that no federation can be as compact as a single homogeneous state, though the compactness will vary with the strength or weakness of the central government. It is true that federation may be comparatively a loose bond, but the alternative is no bond at all. Federation is only possible under certain conditions, when the states to be federated are so far akin that they can be united, and yet so far dissimilar that they cannot be fused into one single body politic; and this I believe to be the present conditions of the provinces of British North America.

Crown and federal union

Carnarvon realized that there might be difficulties even with federal union. But he believed that the Dominion of Canada enjoyed one con-

[1] Mackenzie, 335, 336.

spicuous advantage lacking in confederations in non-British countries. "It is to be remembered," he said, "that unlike every other federation that has existed, the federation of British North American provinces derives its political existence from an external authority. It derives it from that which is the recognized source of power and rights — the British crown." "And I cannot but recognize in this," Carnarvon added, "some security against those conflicts of state rights and central authority which in other federations have sometimes proved so disastrous." [1]

[1] H. L. Debates, February 19, 1867.

# CHAPTER IX

## THE DISTRIBUTION OF POWERS BETWEEN THE DOMINION AND PROVINCIAL GOVERNMENTS

Lessons from civil war of 1861–1865

THE success of the United States under the federal system stimulated the first stages of the movement in the United Provinces for a union of all the British North American provinces. But as the movement was gradually pushed forward — as confederation of all the provinces, or a federal union of Upper and Lower Canada, was coming into sight — disturbing conditions developed in the United States which brought about the civil war of 1861–1865.

The Fathers of Confederation noted these ominous conditions, and realized that they must establish a federal union with a constitution that would reduce to a minimum the likelihood of serious friction between the central government and the various provincial governments.

Avoiding trouble over provincial rights

In the session of the legislature of the United Provinces of 1860 — soon after the mission of Galt and Cartier to London in the interest of confederation — John A. Macdonald made a speech in the assembly in which he insisted that in the constitution for the British provinces some dangers which he regarded as inherent in the constitution of the United States must be avoided.

Macdonald's conception of American constitution

"The fatal error which they have committed," he said, in alluding to the struggle over states' rights, "and it was perhaps unavoidable from the state of the American colonies at the time of the revolution, was in making each state a distinct sovereignty. The fatal error was made in giving to each state distinct sovereign power, except in those instances where powers were specially reserved by the constitution, and conferred upon the general government."

A strong central government essential

"The true principle of confederation," continued the statesman of the United Provinces, who in 1867 was created Knight Commander of the Bath for his services at Confederation, "lies in giving to the general government all the principles and powers of sovereignty, and in the provision that the subordinate or individual states should have no powers but those expressly bestowed on them. We should thus have a powerful central government, a powerful central legislature, and a powerful decentralized system of minor legislatures for local purposes." [1]

Where framers of constitution of United States erred

The principles of distribution of powers between the Dominion and the provincial governments which Macdonald thus enunciated in 1860 were reiterated by him at the Quebec convention of 1864. He recalled political conditions in the recently revolted American colonies at the time when the constitution of the United States was framed.

[1] Boyd, 181–182.

"There were," he said, "thirteen individual sovereignties, quite distinct the one from the other. The error at the formation of these constitutions was that each state reserved to itself all sovereign rights, save small portions delegated. We must reverse the decision by strengthening the general government, and conferring on the provincial bodies only such powers as may be required for local purposes." [1]

The principles which Macdonald had thus twice enunciated were adopted at Quebec.[2] It

[1] "The framers of the constitution of Canada," wrote ex-President Taft, in the *National Geographic Magazine*, Washington, March, 1916, "thought it an improvement on the constitution of the United States in that the defects which the constitution of the United States was supposed to have shown in the civil war were corrected." Mr. Taft quoted Macdonald's speech at Quebec. "I think," he continued, "it is the general opinion now that this view of the constitution of the United States was a mistaken one. The adoption of the 13th, 14th, and 15th amendments strengthened somewhat the restraint upon state legislatures enforceable in the supreme court of the United States, but generally the division of power between the states and the general government remained the same. And yet as our congress has exercised powers which she always had, but which she had not before exercised, the strength of the central government is seen to be quite all that it ought to be. There is danger that a great widening of the field of federal activity, and a substantial diminution of state rights, would in the end threaten the integrity of our union instead of promoting it."

[2] "Canada is a single state, in which the various units have prescribed powers: the United States is a union of many states, which have agreed to delegate certain powers to a

Quebec convention accepts Macdonald's views

was agreed that in the division of powers between the Dominion and the provincial governments the residuum should be in the Dominion government, and not be reserved either to the provinces or to the people, as in the constitution of the United States.[1]

No contention over division of powers

The plan was apparently adopted without contention; for Tupper, in his recollections of the convention, writes that there was "a wonderful accord among the various representatives in regard to general principles involved in drafting a basis of union."[2] This unanimity was eulogized by Adderley, under-secretary for the colonies, when the British North America bill was before the house of commons at Westminster.[3]

## I. *The Powers of the Dominion Parliament*

Carnarvon's case for strong central government

Carnarvon, in introducing the bill to the house of lords, characterized the clauses which effected the distribution of powers as "the most delicate and important part of the measure." "In this," he said, "I think is comprised the main theory and constitution of federal government. On this depends the practical working of the new scheme."

central authority." — George M. Wrong, "The Creation of the Federal System in Canada," 24.

[1] Cf. Taft, "Great Britain's Bread upon the Waters," *National Geographic Magazine*, March, 1916, 232.

[2] Tupper, "Recollections of Sixty Years," 40.

[3] Cf. H. C. Debates, February 27, 1867.

And here — Carnarvon continued — we navigate a sea of difficulties. There are rocks on the right hand, and on the left. If, on the one hand, the central government be too strong, then there is risk that it may absorb the local action and that wholesome self-government by the provincial bodies which it is a matter of both good faith and political expediency to maintain. If, on the other hand, the central government is not strong enough, there arises a conflict of states' rights and pretensions. Cohesion is destroyed, and the effective vigor of central authority is encroached upon.

Municipal liberty for provinces

Familiarity with Macdonald's enunciation of 1860 and 1864 of the principles on which he desired that the federal union should be based is obvious in Carnarvon's next remarks on the distribution of powers effected by the bill.

The real object we have in view — he said — is to give to the central government those high functions and almost sovereign powers by which general principles and uniformity of legislation may be secured in those questions that are of common import to all the provinces, and at the same time retain for each province so ample a measure of municipal liberty and self-government as will allow them, and indeed compel them, to exercise those local powers which they can exercise with great advantage to the community.

Claims of superiority over American constitution

Carnarvon made no claim as to the general superiority of the constitution of the Dominion over the constitution of the United States. Such a claim was left to the advocates of the new constitution in the legislatures of the several British North American provinces.[1] But in one particular he was confident that the constitution was superior to that of the United States.

[1] Cf. Mackenzie, 309; Boyd, 225.

**Central parliament and criminal code**

To the central parliament — he said, when explaining the clause of the bill dealing with the criminal code and the administration of criminal law — will be assigned the enactment of criminal law. The administration of it, indeed, is vested in the local authorities; but the power of general legislation is very properly reserved for the central parliament. And in this, I cannot but note a wise departure from the system pursued in the United States, where each state is competent to deal, as it may please, with its criminal code, and where an offense may be visited with one penalty in the state of New York, and with another in the state of Virginia. The system proposed is, I believe, a better and a safer one.[1]

**Four groups of powers**

The division of powers made by the British North America act is effected by a distinct classification into four divisions. In the first division are those subjects which are assigned exclusively to the Dominion parliament. In the second are those which are assigned exclusively to the provincial legislatures. In the third are the subjects of concurrent legislation, such as immigration and agriculture; and the fourth comprises the subject of education.

**Division I — powers assigned to Dominion parliament**

The section of the act assigning subjects to the Dominion parliament declares that it shall be lawful for the sovereign, "by and with the advice and consent of the senate and the house of commons, to make laws for the peace, order, and good government of Canada, in relation to all matters not coming within the classes of subjects by this act assigned exclusively to the legislatures of the provinces." "And for greater certainty,"

[1] H. L. Debates, February 19, 1867.

it continues, "but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared, notwithstanding anything in this act, that the exclusive legislative authority of the parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated."

Twenty-nine subjects are enumerated. They are as follows:

1. The public debt and property.
2. The regulation of trade and commerce.
3. The raising of money by any mode or system of taxation.
4. The borrowing of money on the public credit.
5. Postal service.
6. The census and statistics.
7. Militia, military and naval service, and defense.
8. The fixing of and providing for the salaries and allowances of civil and other officers of the government of Canada.
9. Beacons, buoys, lighthouses, and Sable Island.
10. Navigation and shipping.
11. Quarantine, and the establishment and maintenance of marine hospitals.
12. Seacoast and inland fisheries.
13. Ferries between a province and any British or foreign country, or between two provinces.
14. Currency and coinage.

15. Banking, incorporation of banks, and the issue of paper money.
16. Savings banks.
17. Weights and measures.
18. Bills of exchange and promissory notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and insolvency.
22. Patents of invention and discovery.
23. Copyrights.
24. Indians and lands reserved for the Indians.
25. Naturalization and aliens.
26. Marriage and divorce.
27. The criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.
28. The establishment, maintenance, and management of penitentiaries.
29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces.

"And any matters coming within any of the classes of subjects enumerated in this section," reads the paragraph following the foregoing enumeration, "shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces."

## II. *Powers of the Provincial Legislatures*

Division II

The second of the four divisions — the divisions in which are set out the subjects assigned to the provincial legislatures — is prefaced by a declaration that "in each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects hereinafter enumerated." They are as follows:

1. The amendment from time to time, notwithstanding anything in this act, of the constitution of the province, except as regards the office of the lieutenant-governor.

2. Direct taxation within the province, in order to the raising of a revenue for provincial purposes.

3. The borrowing of money on the sole credit of the province.

4. The establishment and tenure of provincial offices, and the appointment and payment of provincial officers.

5. The management and sale of the public lands belonging to the province, and of the timber and wood thereon.

6. The establishment, maintenance, and management of public and reformatory prisons in and for the province.

7. The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the provinces, other than marine hospitals.

8. Municipal institutions in the province.

9. Shop, saloon, tavern, and other licenses, in order to the raising of a revenue for provincial, local, or municipal purposes.

10. Local works and undertakings, other than such as are of the following classes:

(*a*) Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province;

(*b*) Lines of steamships between the province and any British or foreign country;

(*c*) Such works as, although wholly situate within the province, are before, or after their execution, declared by the parliament of Canada to be for the general advantage of Canada, or for the advantage of two or more of the provinces.

11. The incorporation of companies with provincial objects.

12. Solemnization of marriage in the province.

13. Property and civil rights in the province.

14. The administration of justice in the province, including the constitution, maintenance, and organization of provincial courts, both of civil and criminal jurisdiction, and including procedure in civil matters in these courts.

15. The imposition of punishment by fine, penalty, or imprisonment, for enforcing any law of the province made with relation to any matter

coming within any of the classes of subjects enumerated in this section.

16. Generally all matters of a merely local or private nature in the province.

### III. *Concurrent Legislation*

Division III

The third division — concurrent legislation — needs a few words of explanation. Long before Confederation, Upper and Lower Canada, Nova Scotia, New Brunswick, and British Columbia had possessed, as they still do in 1918, large areas of crown lands. In each of these provinces, moreover, laws had been enacted to encourage immigration from the United Kingdom with a view to the settlement of these crown lands. None of the provinces parted with the control of their crown lands when they entered the federal union.

Crown lands

At Confederation the Dominion was possessed of no crown lands that were available for colonization on a large scale. Its only public lands in 1867 were military and naval reservations, which, at Confederation, were ceded by the imperial government. The Dominion government remained without so much as a quarter section of 160 acres to offer to immigrants until it acquired the Hudson Bay Company's territory in 1869, and parts of these vast areas were surveyed and parceled out for settlement.

It was these conditions as regards crown lands, and also the fact that each of the provinces

Agricultural policies of provinces

desired, after Confederation, to continue its own agricultural policy, that resulted in the third division in the distribution of powers effected by the British North America act.

Immigration and agriculture

There is only one section in this third division.

In each province — it reads — the legislature may make laws in relation to agriculture in the province, and to immigration into the province. And it is hereby declared that the parliament of Canada may, from time to time, make laws in relation to agriculture in all or any of the provinces, and to immigration into all or any of the provinces; and any law of the legislature of a province, relative to agriculture, or to immigration, shall have effect in and for the province as long and as far only as it is not repugnant to any act of the parliament of Canada.

Chinese immigration

Except that the legislature of British Columbia has frequently passed bills restricting Chinese immigration into the province — bills that did not become law because they were disallowed by the government at Ottawa[1] — the provincial legislatures after Confederation, ceased to pass laws regulating immigration.

The Dominion code, administered by the department of immigration and colonization at Ottawa, has long been the only law, Dominion

[1] "By virtue of sections 56 and 90 of the British North America act, an authentic copy of every provincial act has to be sent to the governor-general; and if the governor-general in council, within one year after receipt thereof, think fit to disallow the act, such disallowance, being signified by the governor-general in the manner prescribed, shall annul the act from and after the day of such signification." — Lefroy, "Canada's Federal System," 81.

Immigration propaganda by provincial governments

or provincial, regulating immigration. But in recent years all the provinces except Prince Edward Island, and the prairie provinces, which have no lands at their disposition for settlement,[1] have, under the concurrent legislative provision of the British North America act, enacted laws under which immigration propaganda is conducted in the United Kingdom, and in the case of Ontario and Quebec, also in the United States.

The propaganda of these provinces, which is distinct from the propaganda of the Dominion government, on which fourteen million dollars were expended in the years from 1897 to 1914,[2] is in the interest of the province which embarks on it. It advertises the special attractions which the province offers to immigrants. The aim of the wider propaganda, long maintained by the government at Ottawa, is to attract immigration to the Dominion as a whole, and in particular to divert a stream of agrarian immigration to the unoccupied Dominion crown lands in the grain-growing provinces west of the Great Lakes.

## IV. *The Legislatures; Parliament and the Cabinet; Education*

Division IV

The fourth division in the distribution of powers — the division concerned with education and the powers of the Dominion and provincial govern-

[1] Crown lands in Manitoba, Saskatchewan, and Alberta are under the control of the Dominion government.

[2] Cf. "Immigration Facts and Figures, Ottawa," 1915, 30.

ments in regard to it — gave the Fathers of Confederation more trouble than almost any other provision embodied in the resolutions on which the British North America act was based. The difficulty arose out of the system of sectarian schools established in Upper Canada under an act of the legislature of the United Provinces passed in 1863.

**Separate schools**

The school system then established created for Upper Canada what have since been known as separate schools — schools for Roman Catholics and schools for Protestants, all supported by local taxation, and under the management of local representatives, with some supervision from the department of education of the province. In the Catholic schools distinctly Catholic teaching is given; in the Protestant schools there is no teaching of the beliefs or tenets of any denomination.

**Opposition in Upper Canada to separate-school system**

The great majority of the people of Upper Canada did not desire separate schools. A common school system, with schools attended by children of all religions, was the aim of the Protestant population of Upper Canada in the years of the legislative union. But in the era of the United Provinces, as today, there were areas in Upper Canada, now Ontario, in which there were large settlements of French-Canadians, and areas settled by immigrants from Ireland.

French-Canadians in the legislature, before 1863, had insisted on separate schools for Lower

Canada; and in the interests of the Roman Catholics — French-Canadian and Irish — they also insisted, from 1849 to 1863, that there should be a separate school system in Upper Canada.

Upper Canada education act of 1863

Fourteen years of bitter sectarian controversy, years in which the Roman Catholics in Upper Canada made the separate school question the paramount issue in politics,[1] culminated in the education act of 1863. It was accepted by the Roman Catholic hierarchy as a settlement — a settlement which relieved the Protestants of Upper Canada from "standing constantly to arms," as George Brown, leader of the Liberals, described the position, "awaiting fresh attacks upon our school system," as they had been compelled to do in the years from 1849 to 1863.

On the eve of Confederation there were 4,000 common schools in Upper Canada. Of this number 100 were separate schools, Roman Catholic in local management and in organization, atmosphere, and teaching.

Lower Canada at Confederation demands safeguarding of separate school system

It would have been impossible to carry the preliminaries to Confederation beyond the Charlottetown convention of September, 1864 — beyond the second of the five stages[2] — had not

[1] Cf. Mackenzie, 122–127.

[2] These stages were (1) the agreement effected when the Tache-Macdonald government was reorganized in June, 1864; (2) the Charlottetown convention; (3) the Quebec convention; (4) the approval of the Quebec resolutions by the legislatures of the several provinces; and (5) the enactment of the British North America act at Westminster.

the Fathers of Confederation been willing that adequate protection should be afforded in the British North America act to the separate school system, and the principles on which it was based when it was established in 1863.

**Safeguards for Protestant schools in Lower Canada**

French Canada would never have given its support to Confederation without this protection. There were also in 1864–1867 comparatively large numbers of Roman Catholics — French-Canadian, Irish, and Highland-Scotch — in Ontario, Nova Scotia, and New Brunswick. Moreover, in Montreal and Quebec, and also in the eastern townships of the French province, there were many people of English and Scotch descent who were of the Protestant minorities in that province — people who could not send their children to the Catholic schools, and who were consequently in need of schools similar to those of the Protestant majority in Upper Canada.

**Section ninety-three**

The protection demanded by those Fathers of Confederation who were vigilant guardians of Roman Catholic interests — nearly all of them from the French province — was embodied in section 93 of the British North America act. This section, which forms the fourth division in the classification and assignment of powers, determines the powers of the provincial legislatures and of the Dominion parliament respectively with regard to education.

Carnarvon approached this section with circumspection when on February 19, 1867, he

unfolded the provisions of the bill to the house of lords.

Carnarvon explains section to house of lords

Your lordships — he said — will observe some rather complicated arrangements in reference to education. The object of this clause is to secure to the religious minority of one province the same rights, privileges, and protection which the religious minority of another province may enjoy. The Roman Catholic minority of Upper Canada, the Protestant minority of Lower Canada, and the Roman Catholic minority of the Maritime Provinces will thus stand on a footing of entire equality. But in the event of any wrong at the hands of the local majority, the minority have a right of appeal to the governor-general in council, and may claim the application of any remedial laws that may be necessary from the central parliament of the Confederation.[1]

A restriction of powers of legislatures

The section as it stands in the act declares that "in and for each province, the legislature may exclusively make laws in relation to education." But the enactment of laws relating to education is governed by an important condition, important from the point of view of the Roman Catholic Church in at least two of the provinces that were organized before Confederation, and also in the three provinces — Manitoba, Saskatchewan, and Alberta — which were created by parliament at Ottawa in the years from 1870 to 1905.

Kernel of section 93

This condition — the kernel of section 93 — is that nothing in "any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union."

[1] H. L. Debates, February 19, 1867.

Protection for Protestant schools in Quebec

In the province of Quebec the legislature cannot enact a law prejudicial to separate schools, Protestant or Roman Catholic, without contravening section 93. It cannot legislate to the disadvantage of these schools, because by section 93 "all the powers, privileges, and duties at the union, by law conferred and imposed in Upper Canada on the separate schools and school trustees of the queen's Roman Catholic subjects," were "extended to the dissentient schools of the queen's Protestant and Roman Catholic subjects in Quebec."

Grievances of minorities

Quite as important as these restrictions on the legislatures in enacting laws relating to schools maintained out of public funds are two other provisions of section 93 for remedying any grievance of minorities that might result from legislatures or governments of the provinces acting in contravention of these terms of the British North America act.

Appeal to governor-general in council

The first of these provisions declares that where in any province a system of separate schools existed by law at the union, or after the union was established, an appeal shall lie to the governor-general in council — that is, to the cabinet at Ottawa — "from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the queen's subjects in relation to education."

"In case any such provincial law, as from time to time seems to the governor-general-in-council

requisite for the due execution of the provisions of this section, is not made," reads the second of these provisions, "or in case any decision of the governor-general-in-council or any appeal under this section is not duly executed by the proper provincial authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the governor-general under this statute."

Remedial legislation by parliament

## V. *A Contention-breeding Provision of the British North America Act*

School situation at Confederation

Only two of the existing nine provinces of the Dominion had separate school systems at Confederation. These were Ontario and Quebec. Nova Scotia,[1] New Brunswick, and Prince Edward Island[2] were free from the system; and

[1] An attempt was made in Nova Scotia on the eve of Confederation to assimilate the school law of that province to the school laws of Upper and Lower Canada. The movement was opposed by Tupper, who intimated to Dr. T. L. Connolly, Roman Catholic archbishop of Halifax, that he should oppose any bill introduced in the legislature to the end desired by the archbishop, and should not shrink from the performance of that duty were he confident that it would terminate his public life. — Saunders, "Life and Letters of Sir Charles Tupper," I, 150–152.

[2] In New Brunswick before Confederation there was a parish school system. In 1871, after an education bill had been enacted by the legislature at Fredericton, the question

British Columbia, six years before it came into Confederation, had established a school system, which the education act[1] declared "shall be conducted upon strictly non-sectarian principles." "Books inculcating the highest morality shall be selected for the use of such schools," reads another section of the law, "and all books of religious character, teaching denominational dogma, shall be strictly excluded therefrom."

**No sectarian schools in British Columbia**

In 1872, a year after it came into the union, British Columbia amended the education act of 1865; and when Robertson, provincial secretary in the McCreight administration, who was in charge of the bill, introduced it to the legislative assembly, he intimated that its basal principles were (1) that every child had a moral right to an education, and (2) that the system should be free and unsectarian.[2] By this act of 1872 clergymen were incapacitated from serving as school trustees.

**New provinces and section 93**

As the school system of British Columbia had been established before the province came into Confederation, it was not possible for the Dominion government to make section 93 of the British

was raised as to whether the parish school system constituted a separate school system under the terms of the British North America act. A case was taken to the judicial committee of the privy council at Whitehall. The decision was that the New Brunswick parish system could not properly be held to constitute a separate school system.

[1] The Common School act, 1865, 28 and 29 Vict., c. 6.

[2] Cf. *Colonist*, Victoria, March 14, 1872.

North America act operative in that province. But when Manitoba was created a province in 1870, the section was made to apply to laws relating to education passed by its legislature. A Conservative government was responsible for the Manitoba act. In 1905, when Saskatchewan and Alberta were created provinces, a Liberal government, supported by fifty-five of the sixty-five members of the house of commons from Quebec, was in power at Ottawa, and again section 93 was extended to the new provinces.

Contention over separate schools after Confederation

There was much heated contention over separate schools in Upper Canada from 1849 to 1863. But this contention of the era of the United Provinces was comparatively small, and certainly limited in area, as compared with the intense and extended contention and bitterness which in the first half-century of Confederation were engendered by section 93 of the British North America act.

French-Canadians, in these fifty years, were as vigilant in asserting the rights of their church under this section, and in securing that the section was extended to the provinces carved out of the Hudson Bay Company's territory, as they were in insisting on the use of the French language in parliament, or in asserting their claims to offices in the civil service and to government patronage generally, or in opposing the enactment of the conscription law of 1917.

Section 93, in the years from 1867 to 1917,

Political crisis arising out of section 93

was at the root of more political crises in Winnipeg, Toronto, and Quebec, and also at Ottawa, than any other issue in provincial or Dominion politics. It was the occasion of more public noise in Manitoba, Ontario, and Quebec than any other controversial question. More political reputations had their gilt edges worn off in these heated and long-drawn-out politico-sectarian, constitutional controversies than in any other controversy or agitation in Canada from Confederation to the great war.

Both political parties involved

Both political parties were vexed and torn by these section 93 agitations. Tupper, a Conservative premier, partly owed his political downfall in 1896 to trouble in Manitoba over section 93, and to developments in Ottawa growing out of this trouble. Laurier, premier of Liberal governments from 1896 to 1911, lost prestige with the Liberals in the constituencies through his part in embodying the section in the constitutions of Saskatchewan and Alberta. He again lost prestige in 1916, when as leader of the opposition in the house of commons he identified himself with claims of the Roman Catholic church under this section — claims originating in connection with separate schools in Ottawa, which at that time were agitating Ontario and Quebec, and making business for the judicial committee of the privy council in London.[1]

[1] Cf. "Priests Block Recruiting in Quebec Province," New York *Times* Magazine, June 25, 1916; Senator Landry's

Roman Catholic church in politics

The church whose interests were so carefully safeguarded at the Quebec convention of 1864 has obtained some advantages in other provinces than Quebec by section 93. The area in which schools controlled by its clergy and its lay adherents are established was extended between 1867 and 1917 in Ontario, and separate schools were established in the prairie provinces.

The recrudescence of the separate-schools question also afforded the church opportunities of giving a political lead to its adherents, and of keeping in touch with political leaders. The schools question also has, since Confederation, as in the years from 1849 to 1863 in Upper and Lower Canada, strengthened the political solidarity of French-Canadians and kept them in association and political sympathy with Roman Catholics in other provinces besides Quebec.

Profitable work for gentlemen of long robe

Lawyers have undoubtedly profited from all these agitations. Cases under the separate-schools laws found their way into the courts. Some of them were carried to the judicial committee of the privy council — the court of last resort for litigants from India and the British dominions that holds its sessions at Whitehall. In the first half century of Confederation, section 93 enriched more barristers in Montreal, Quebec, Ottawa, Toronto, and Winnipeg, and more

letter of May 22, 1916, the *Gazette*, Montreal, June 3, 1916; full text of judgments in school cases, the *Gazette*, Montreal, November 3, 1916.

attorneys and gentlemen of the long robe and of the Inns of Court in the neighborhood of Temple Bar, than any other section of the British North America act.

**A key to some conditions in Dominion politics**

Carnarvon, who as colonial secretary managed the preliminary negotiations with the Fathers of Confederation who were in London in 1867, and who piloted the British North America act through the house of lords with a good will towards Canada and its aspirations and a statesmanlike parliamentary skill that are kindly remembered in the Dominion, described section 93 as complicated.

It is complicated. It is one of the most complicated and contention-breeding sections ever embodied in the constitution of any English-speaking country. But it must be understood, and so must the education systems of the older provinces as they existed on the eve of Confederation. Otherwise it is impossible to understand many political episodes and developments in Canada since 1867, or to realize the cause of the divisions between Quebec and Ontario in Dominion politics, or to understand some of the conditions that have long characterized politics at Ottawa.

# CHAPTER X

## THE GOVERNOR-GENERAL AND CABINET

BEFORE Confederation there was a governor-general established at the capital of the United Provinces, and a governor in each of the other provinces of British Columbia, Nova Scotia, New Brunswick, and Prince Edward Island. They were all appointed by the crown, on the advice and recommendation of the colonial office in London. They were sent out from Great Britain, and were appointed under the patronage system as it then existed at Westminster.

Colonial governors before Confederation

### I. *The Governor-general under Confederation*

By the British North America act the office of governor-general was continued; and governors of the other provinces ceased to be appointed by the colonial office. For governors sent out from Great Britain there were substituted lieutenant-governors — invariably Canadians — appointed by the governor-general in council — in practice by the cabinet at Ottawa.

Lieutenant-governors under the B. N. A. act

No change was made by the British North America act in the general relations of the governor-general to the cabinet. These remained the same as from 1849 — the year in which

Governor-general and the cabinet

Elgin, continuing an undertaking successfully begun by Sydenham in 1841, aided in completely establishing responsible government in the United Provinces.

By responsible government, it will be recalled, is meant the system under which the governor-general must form his executive council or cabinet only from members of parliament who can command the support of a majority of the members of the house of commons — the house which in practice has sole control of the powers of taxation and appropriation.

**Custom of the constitution**

There was no law, either of the imperial parliament or of the legislature of the United Provinces, establishing the system of responsible government. There is no law of the imperial parliament which established the cabinet at Ottawa exactly as it is constituted today — as it has been constituted since 1867.[1] Nor is there any law which declares that the cabinet at Whitehall must be

[1] All that the section of the British North America act establishing the executive council or cabinet says is, "There shall be a council to aid and advise the government of Canada, to be styled the queen's privy council for Canada; and the persons who are to be members of that council shall be from time to time chosen and summoned by the governor-general and sworn in as privy councilors, and the members thereof may be from time to time removed by the governor-general." — Section XI. "The provisions of the British North-America act imply, though they do not express, the unwritten conventions of British parliamentary practice." — H. E. Egerton, "Federations and unions within the British Empire," 123–24.

chosen by the king from members of parliament who command a majority in the house of commons at Westminster. The cabinet system at Whitehall is based on usage — on a custom of the constitution which has been continuously followed for at least two centuries.

Unwritten constitution of the United Provinces

At the capital of the United Provinces the system of responsible government was also based only on usage, or on the custom of the constitution. From 1840 to 1867 the United Provinces had a written constitution — the act of union of 1840, with the liberalizing amendments made by the imperial parliament in 1847 and 1854. But they had also, as has already been told, an unwritten constitution.

The greatly restricted power of the legislative council in respect to money bills — the power to reject but not to amend a money bill — was determined by the unwritten constitution. So also was the right of the legislature to enact a tariff without regard to the industrial and commercial interests of the United Kingdom, a right first asserted and exercised in 1858. It was also under the unwritten constitution that responsible government was established in 1841–1845, and maintained inviolate from 1849 to 1867.

Unwritten constitution of the Dominion

Quite important parts of the constitution of the Dominion are still unwritten. The British North America act ordains that "bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate in

the house of commons." The conditions under which money bills shall originate — conditions which prevent any money bill from originating except at the instance of the privy council or cabinet — are also determined by the written constitution.

**Restricted power of the senate over money bills**

There is, however, no section in the act which decrees that the senate shall have far less power over money bills — a power that in practice is scarcely more than nominal — than is exercised by the house of commons. Nor was there any section in the Quebec act of 1791, or in the act of union of 1840, which gave to the three legislative assemblies of 1791–1867[1] the larger powers which they exercised over money bills. In regard to money bills the legislative councils were in the same position as is today the senate at Ottawa. In all matters affecting the raising and appropriation of the provincial revenues they were in an inferior or secondary position in relation to the legislative assemblies.

The larger powers of the commons of the Dominion over money bills are based on a custom of the constitution of the United Kingdom, which originated at Westminster in 1661[2] — a custom that had been established for almost a century

[1] The legislative assembly of Upper Canada, the legislative assembly of Lower Canada, and the legislative assembly of the United Provinces.

[2] Cf. Porritt, "Unreformed House of Commons," I, 548–557.

before the first elected legislative assembly in any of the present oversea dominions of Great Britain came into existence at Halifax in 1758. Responsible government in the Dominion, the system of government that restricts drastically the actual power and authority of the governor-general at Ottawa, is also still based only on usage and custom. Neither by the British North America act, nor by any subsequent legislation at Westminster, was direct statutory sanction given to the system of government in Canada that between 1841 and 1849 was created by the statesmen of the United Provinces, and accepted by Sydenham, Bagot, and Elgin as representatives of the crown.

Responsible government developed by usage

## II. *Relations of the Governor-general to the Cabinet*

There is, however, a section in the British North America act that to some degree and indirectly establishes responsible government, and much of what in Canada between 1841 and 1867 had come to be associated with the term — Canadian in origin — "responsible government." "The provisions of this act relating to the governor-general," it reads, "shall be construed as referring to the governor-general, acting by and with the advice of the queen's privy council for Canada."

Governor-general must act on advice of cabinet

Lafontaine and Baldwin and their colleagues of the movement for responsible government,

**Basal principles of responsible government**

it will be recalled, made two demands on Metcalfe in 1843–1845. They insisted on his acting on two principles. The first was that he should select his executive council — or cabinet — only from the political party which commanded a majority in the legislative assembly. The second was that he should act in all political matters only on the advice of the council so chosen.

Elgin's policies and actions as governor-general of the United Provinces from 1847 to 1854 were based on these two principles. His fame in Canadian history, and in the history of the Empire, rests on his part in the establishment of responsible government. Head and Monck, his successors, acted on the precedents that Elgin had established.

**These principles adopted in other colonies**

These principles were soon adopted in other British colonies. They were, in fact, so quickly, and completely adopted in the British North American provinces, in Australasia, and in South Africa, that as early as 1860, seven years before Confederation, responsible government had become so general in British colonies with parliamentary institutions, and the powers of governors had thereby been so greatly curtailed, that Sir William Denison, governor of New South Wales from 1854 to 1861, expressed regret that under the new order there remained little real work for governors to do.

While serving as governor at Sydney, Denison, who was of the old school of colonial adminis-

trators, was appointed governor of Madras, a province of India, in which there was no representative government, and consequently no system of responsible government. "I look forward with great pleasure," he wrote from Sydney, on November 17, 1860, "to the idea of having something to do. In these responsible governments one sees much going on which is most objectionable. Yet one is powerless either to do good or to prevent evil." [1]

Position of colonial governor under responsible government

New duties and added responsibilities were imposed by the British North America act on the governor-in-council. These new duties necessarily accrued to the cabinet in a federation which in 1867 included four provinces and by 1905 had come to include nine. Only two or three examples need be cited to illustrate the new duties that had to be assumed by the cabinet of the Dominion, duties of a class and importance such as had never been discharged by the executive council of the United Provinces nor by the cabinet of any British North American province in the era of 1791–1867.

Governor-in-council

The appointment of lieutenant-governors of the provinces, by the British North America act, is vested in the governor-general-in-council. On the governor-general-in-council is also imposed the responsibility of disallowing acts passed by the provincial legislatures; and it is to the governor-general-in-council that aggrieved minorities under

Increased powers and new functions of the Dominion cabinet

[1] Denison, "Varieties of Viceregal Life," I, 497.

section 93 — the separate-schools section — make their appeals for remedial measures.

**Orders-in-council**

Orders-in-council made under statutory authority — orders promulgated in the Canada *Gazette*, the official journal of the Dominion — which have the force of law, also issue from the governor-general-in-council. These orders, under the federal system, are necessarily more numerous, much more important, and in every way a larger part of the governmental machinery than orders-in-council were in the period in which every province was separately organized, and conducted, through its governor, all its own business and its negotiations with the sister provinces and with the imperial government.

**Meaning of the term "governor-general-in-council"**

At most, however, these new duties and responsibilities thrown upon the governor-general-in-council add only to the dignity and the nominal importance of the governor-general. The governor-general-in-council in reality is not much more than the title of the cabinet, the king's privy council in Canada.

## III. *The Governor-general and Party Politics*

**A constitutional fiction**

The presence of the governor-general-in-council is today not much more than a constitutional fiction. In the chamber of the king's privy council, in the eastern block at Ottawa, there is a high-backed, decorated chair. It is at the head of the council board. It is reserved for the

king's representative. There is a tradition at Ottawa that in the days of the United Provinces this chair was sometimes occupied by the governor-general. But rare indeed are the occasions since Confederation when the regal chair has been occupied by the governor-general during a session of the cabinet.

Non-attendance of governor-general at meetings of cabinet

Why the governor-general of the Dominion has seldom or never sat at the head of the cabinet table has been explained by a former governor-general, the late Duke of Argyll, who was much appreciated and popular in Canada during his term of office from 1878 to 1883.

Argyll, who until 1900 was Marquis of Lorne, assumed office at Ottawa in November, 1878. In a private letter written in November or December of that year, the new governor-general remarked on some of the old world usages he had discovered in the new world capital.

Survival of old monarchical usages

It is curious — he wrote — how old monarchical ways, no longer known in Great Britain, still survive in some forms in the free and self-governing colonies. For instance, now that I have taken up my work, and attend at the government buildings to all the papers that are brought before me, I am sometimes told that my predecessors used to attend also the meetings of the cabinet, quite as we may suppose the Stuart monarchs may have presided at their council of state, when their ministers deliberated. Now you know well, or ought to know, that the queen, and the sovereigns before her since the revolution, have done this but seldom. When the queen nominally presides at a council it is only a form, for all decisions have been previously taken. She has seen the papers that led to the decision, and she may herself, or through her

secretary, have taken part in written or oral discussion, but with each minister, or the prime minister singly, and not in cabinet conclave.

**Regal chair in the cabinet chamber at Ottawa**

But the governor-general of Canada has often himself sat and spoken in the cabinet conclave. To prove this to me I was shown the council room, in which a high-backed, decorated chair was placed at the head of the long table, and ranged along the table at each side, were the chairs for the ministers. I said, as soon as I saw this cabinet throne, that I would not be representing the queen in occupying it when ministers were engaged in consulting with each other about any bill they proposed to bring forward in the house, and that I would never use it.

"Nor did I," added Argyll, when in 1907 these notes of 1878 were published in his reminiscences, "do so — sit in the regal chair — even for the formality of assenting to bills passed, which was done by signing council orders." [1]

**Governors-general from 1878 to the beginning of the war**

The attitude and policy of Argyll towards the cabinets of 1878–1882 was also the attitude of the Marquis of Lansdowne, Lord Stanley of Preston, the Earl of Aberdeen, the Earl of Minto, Earl Grey, and the Duke of Connaught, who were successively governors-general from 1883 to the outbreak of war in 1914. No other attitude, in fact, was possible; for no other attitude would have been tolerated by the statesmen or by the people of the Dominion.

**Governor-general non-partisan**

The governor-general's attitude on all political questions must be absolutely non-partisan. Whatever his party affiliations at Westminster may

[1] Argyll, "Passages from the Past," II, 412.

have been, immediately he assumes office at Ottawa, as the representative of the king, his attitude towards political parties and political agitations of all kinds, in the constituencies as well as in parliament, must be as nearly as he can approach it the attitude of the king toward political parties at Westminster.

His attitude toward the ins and the outs

As the king's representative he must stand aloof in all party contentions. He must accept the services of the group of party leaders who can command a majority in the house of commons. But he must be ready at any time to accept the services of the leaders of the opposition, if a ministerial crisis, or the issue of a general election, brings about the downfall of the party in power, and control of the house of commons is transferred to the party previously in opposition.

## IV. *Influence of the Governor-general on Political Life*

Corruption and political scandals

A political history of Canada from 1867 to 1917 that was loyal to the truth would have to tell of much corruption and of many scandals at Ottawa. Some of the scandals grew out of methods resorted to by politicians in power to raise money for election campaigns from Canada's governing class — from the men who were dickering for railway charters and the accompanying land grants and subsidies from the Dominion treasury;[1] from beneficiaries of the tariff and of

[1] Cf. Boyd, 328–332.

the iron and steel bounties of 1883–1911;[1] from men who desired large grants of public lands with valuable timber rights; and from men who were seeking by orders of the governor-general-in-council valuable mineral or water rights.[2]

**Contracts and electioneering**

Other political scandals of the first fifty years of Confederation developed out of corrupt relations of politicians in power with contractors for public buildings, for dredging, and other public works;[3] out of the corruption[4] and frauds at elections to the house of commons; out of the lavish expenditures on the immigration propaganda;

[1] Cf. Cartwright on the Red Parlor at Ottawa, H. C. Debates, April 11, 1890.

[2] "Generally I would charge against your party, as represented by the governments in which you sat," wrote Sir John Willison, editor of the *News*, Toronto, to Sir Charles Tupper, in 1903, "that it carried on a strong constructive Canadian policy by bad political methods, and gross corruption in the constituencies; and that the net result was to build up Canada, and greatly lower the public morals." — Saunders, "Life and Letters of Sir Charles Tupper," II, 255.

[3] Cf. Speech by Sir George E. Foster, Minister of Trade and Commerce, House of Commons, Ottawa, February 17, 1916; and "Campaign Funds, Dominion and Provincial," *Tribune*, Winnipeg, November 30, 1915.

[4] "In Canada the necessity of two contending parties to obtain an electoral majority in every district is a corrupting influence which poisons the life of the people from the Atlantic to the Pacific." —Viscount Grey of Fallodon, letter on proportional representation. *The Times*, London, April 2, 1917.

and out of the purchase of small railway lines, to be used as feeders or branches of the Intercolonial Railway, the line owned and operated by the Dominion government, that connects St. John and Halifax with Montreal.[1]

An ex-governor-general's description of political conditions

Political conditions at Ottawa and in the constituencies, that since 1867 have continued or developed these flaws in the working of the representative and administrative institutions of Canada, are soon obvious to a new governor-general. He cannot read Canadian history, the debates in parliament, the reports of royal commissions and investigating committees, or even the daily newspapers, without becoming aware of them. But the position of the king's representative at Ottawa in regard to political parties and political controversy is, and since 1849 has always been, such as to make corrective action on his part impossible.

The attitude at Whitehall toward political scandals in the Dominion

The Dominion is under responsible government. This is a condition that obviously admits of no change. However great the scandal, there can be no interference by the governor-general, so long as the political party in the majority stands ready to support the government in the house of commons at Ottawa.

"The Canadian ministers," said Gladstone, when, during his administration of 1868–1874, his attention was called in the house of commons to the scandal over the first charter for the

[1] Cf. *Grain Growers' Guide*, Winnipeg, May 31, 1915.

Canadian Pacific Railway, granted by the Macdonald government in 1872, "are responsible to their parliament, and are not in any way responsible to us for their conduct. I do not think this is a matter in which it is competent or desirable for us to interfere." [1]

**An attitude in which no change is possible**

Investigations into the granting of the first charter for the first trans-continental line across the Dominion revealed the worst scandal in the history of Great Britain's oversea dominions. Macdonald, by the action of the house of commons at Ottawa, was forced to resign, and was out of power from 1873 to 1878. The scandal was not forgotten in Great Britain, when, after his death in 1891, tributes to Macdonald as an empire builder were paid in parliament at Westminster. But neither in Great Britain nor in Canada has the attitude which Gladstone assumed in 1873 ever been questioned.

**No uninvited interference from Great Britain**

The Dominion of Canada, like all the dominions, is under responsible government in the fullest meaning of the term. Canadians pride themselves on this fact. They point with pride also to the leading and conspicuous part which the old British North American provinces had from 1791 to 1849 in securing responsible government and the status of nation for the other oversea dominions of the empire. In the internal affairs of Canada there can never be any uninvited interference by Great Britain, either through parliament at

[1] H. C. Debates, August 1, 1873.

Westminster, or through the colonial office or the governor-general.[1]

Political standards a matter for the people of Canada

Recognition of this fact is one of the fundamental principles of the relations between Great Britain and the oversea dominions. Failure to recognize it, and to adapt all policies in accordance with it, would endanger the tie that holds the Empire together. The government of Canada can be made responsible in the widest and best sense of the term — a government under which it will be impossible for any governing class to achieve its unsocial ends — only by the action of the men and women of Canada.

A corrupting governing class

Only by public opinion, expressed at the polls, can the government be made actually responsible to all the people of the Dominion. Only by public opinion, so expressed, will an end be made to a party system that permits a small governing class, systematically using both political parties, to name the men who shall hold this or that portfolio in the Dominion cabinet,[2] or to dictate

[1] "The king is a constitutional monarch, reigning by virtue of an act of parliament, who leaves ruling to those whose constitutional duty it is — the ministry responsible to the people of the British Isles. That ministry has long ceased to interfere with Canadian affairs. It would not think of directing or even advising the people of Canada or its ministry what to do, or to leave undone." — Riddell, "Constitution of Canada," 90–91.

[2] In the twenty years from 1896 to 1917 there were only two changes of government at Ottawa. At each of these changes — the first in 1896, and the second in 1911 — the

policies and legislation in its own interest, and antagonistic to the interests of the people as a whole.[1]

**Public opinion tardy in expressing itself**

Public opinion in Canada is slow in expressing itself at the polls against a government under which corruption has manifested itself, or against a government which has repudiated pledges by virtue of which it was elected.[2] Only once in the first half century of Confederation, in 1874, did the electors of the Dominion dethrone a government because it had proved corrupt and untrustworthy.[3]

**Party fealty**

An administration at Ottawa is little perturbed by the exposure of a scandal unless it is so grave as to bring about its downfall. The party supporters of the government in the house of commons — the only house that need be considered in these matters — under any and all conditions will vote with the government.[4] The party press from Halifax to Victoria will whitewash the government, and insist, no matter how

governing class, represented on both occasions by the bankers of Montreal and Toronto, dictated to the incoming premier the man on whom he must bestow the portfolio of minister of finance.

[1] Cf. Goldwin Smith, "On the Position and Functions of the Governor-General," *Sun*, Toronto, March 18, 1908, and A. MacPhail, "Essays in Politics," 92.

[2] Cf. Porritt, "Sixty Years of Protection in Canada," 363–387.

[3] Cf. Cartwright, "Reminiscences," 110–119.

[4] Cf. Cartwright, *ibid.*, 112.

gross the scandal that has been exposed, that conditions are no worse than they were when the opposition was in power.

Much the same attitude will be taken by the active supporters of the government in the constituencies, and in particular by the local political mechanics; for nowhere in the English-speaking world in normal times are party lines more rigidly drawn or more rigidly adhered to than in Canada.

Rigidity of party lines

In the constituencies there is no large body of electors who are unattached to either political party. There is no large independent vote, as there is in the United Kingdom and the United States;[1] and unfortunately for the beneficent working of the party system and of representative institutions, conditions in Dominion politics from 1896 to the beginning of the war in 1914 were such as not to admit of the existence of a strong, aggressive, and effective opposition in the house of commons at Ottawa.

## V. *Extra-Official Utterances of the Governor-general*

On the everyday political life of the Dominion — on the policies, standards, and ideals of statesmen and parties at Ottawa — the governor-general has not as much influence, direct or indirect, as the editor of any widely circulated newspaper that is not tied to any political party.

Governor-general and contemporary politics

[1] Cf. Riddell, "Constitution of Canada," notes IV and V, 105–6.

Only with his constitutional advisers is it allowable for him to talk politics. In public, contemporary politics is a forbidden subject for a governor-general; and discretion must be exercised when he ventures to discourse from a public platform on religion, economics, or sociology.

**Academic freedom of the governor-general**

There is not much even of academic freedom for a governor-general. Grey, who was at Ottawa from 1904 to 1911, was much criticized because he spoke in public on the widespread success in England and Scotland of coöperation on the Rochdale principle. Even in discussing on the platform general or abstract principles and virtues, a governor-general must use much circumspection, and take due care that any speech he makes is accurately reported in the press. On contemporary politics in all their various aspects he must not, in public, venture even a hint. It might be construed as prejudicial to the political party in power, or as giving aid and comfort to the party in opposition in the house of commons.

**Functions of governor-general more than formal**

The position of governor-general in Canada, or in any of the other four dominions, is, admittedly, much as Denison described the position of the governor of New South Wales, in 1860. But the office is more than the most visible link that binds the Dominion to Great Britain and the empire. Some of the functions that attach to the office are ceremonial. Others are only

formal. Formal as they are, they must be faithfully discharged, or there might be crises when the day-by-day business of the Dominion would come indefinitely to a standstill.

Wellington's maxim

It was a maxim of Wellington's, in the political years of his long career, that come what might to political parties at Westminster, the king's business must go on; and the important mission of the governor-general is to see that, no matter what may happen to contending political parties, the king's business in Canada goes on.

A popularly elected governor-general undesirable

More than once it has been suggested in Canada that the governor-general should be elected. There are Canadians — many of them — who could discharge the executive functions of the governor-general; and little harm would result if some of the ceremonial functions were abandoned. But no popular election could possibly carry into the office a man sufficiently aloof from political parties and political controversies and agitations to exercise the delicate and important constitutional functions that come at times into the day's work of the governor-general under the present system of representative and responsible government.

It is the complete aloofness of the governor-general from the fortunes of all political parties in Canada; his disinterestedness in all politics in the Dominion except the smooth and continuous running of government; and the fact that his term in Ottawa is fixed, and he is indebted

to no party, no interest, and no man in Canada for his appointment, that gives value to the governor-general's position.

**Men who serve Canada and the empire**

It is sometimes asserted that if Great Britain had no king, a king must be created, if the system of government by parliament and cabinet, as it has been developed since 1688, were to continue. The same might be asserted of the governor-generalship of Canada. It is inconceivable that representative and responsible government could continue, as it has been developed since 1841, without a governor-general sent out from England; and so long as the existing form of government continues, the men in political life in Great Britain who, for terms of four or five years, exchange Westminster for Ottawa to serve as governor-general, render good service not only to Canada, but to the empire and to British political civilization.

# CHAPTER XI

## PARLIAMENT: THE SENATE

Principle of elected upper chamber discarded

FROM 1856 to 1866 the council of the legislature of the United Provinces was partly nominated and partly elected;[1] and the two provinces — Ontario and Quebec — were divided into senatorial electoral districts. At Confederation the elective principle was discarded; and by the British North America act it was provided that there should be a senate and a house of commons, and that members of the senate should be appointed by the crown, acting through the governor-general.

Senators appointed by cabinet

In practice this obviously meant that the senators were to be appointed by the cabinet at Ottawa; for since the end of the Metcalfe régime of 1843–1845, it had not been in the power of a governor-general to appoint even a postmaster or a collector of customs, except on the advice of the executive council or the cabinet.

Qualifications for senator

The statutory qualifications for senator are (1) that he shall be of the full age of thirty years; (2) that he shall be either a natural-born or naturalized subject of the king; (3) that he shall hold freehold property within the province for

[1] Cf. Statutes of the Province of Canada, 19 and 20 Victoria, c. cxl.

which he is appointed, of the value of $4000 over and above all incumbrances; (4) that his real and personal property shall be worth $4000 over and above his debts and liabilities; (5) that he shall be resident in the province for which he is appointed; and (6) in the case of Quebec, that he shall have his real property qualification in the senatorial division for which he is appointed or shall be resident in that division.

### I. *Abandonment of the Elective Principle*

**Objection to discarding elective principle**

In February, 1865, when the resolutions of the Quebec conference were before the legislative assembly of the United Provinces, objection was made both to the abandonment of the elective principle for the senate and to the continuing of senatorial divisions for Quebec, while no such provision was made for senatorial divisions in the other provinces.

**Grounds on which it was discarded**

George Brown, of Ontario, who was of the administration that carried the Quebec resolutions through the legislature of the United Provinces, answered both of these criticisms. One of the reasons for abandoning the elective principle was the dread that an elective upper house might encroach on the powers of the lower house. It might claim power over money bills, which the lower house claimed as its right.

**Elected senate and money bills**

"Could they not," asked the leader of the Ontario Liberals of the era of Confederation, "justly say that they represent the people as

well as we do, and that the control of the purse strings ought therefore to belong to them as much as to us? They might amend our money bills. They might throw out our bills if they liked, and bring to a stop the whole machinery of government."

Cost of senatorial election

Another reason for abandoning the elective principle as it had been tried from 1856 was that the election of senators from districts of large area made it difficult to find men who were willing to be candidates. "The constituencies," continued Brown, in speaking of the forty-eight electoral divisions for the legislative council of the United Provinces, "are so vast that it is difficult to find gentlemen who have the will to incur the labor of such a contest, who are sufficiently known and popular enough throughout districts so wide, and who have money enough to pay the enormous bills that are sent in after the combat is over." [1]

Radicals and the elective principle

These were the reasons advanced in 1865 for abandoning the elective principle — a principle for which radicals of the school of Papineau and Mackenzie had contended ten or fifteen years before the rebellions of 1837, and for which radicals had contended from the union of 1840 until 1856, when the principle was adopted for both houses of the legislature.

One reason for the abandonment was not publicly advanced by any of the Fathers of

[1] Mackenzie, "Life of George Brown," 306–307.

Greasing the ways for Confederation resolutions

Confederation. It was known that seventy-two senators, with salaries, and holding office for life, would be appointed at Confederation; and a pact that these appointments should be made from among men already in the legislative councils of the United Provinces and of the Maritime Provinces undoubtedly greased the ways for the Quebec resolutions in the legislatures of what are now sometimes described as the senior provinces of the Dominion.

## II. *Senatorial Divisions in Province of Quebec*

Senatorial divisions in Quebec

How it comes about that today, as since 1867, senators at Ottawa from Quebec represent senatorial divisions, while senators from Nova Scotia, New Brunswick, Prince Edward Island, Ontario, Manitoba, Saskatchewan, Alberta, and British Columbia represent their provinces at large, can be learned from the speech of the Liberal leader of Ontario when the Quebec resolutions were before the legislative assembly of the United Provinces. Many important concessions were made to the French province to insure the success of the movement for Confederation.[1]

[1] "No other constitution would give French-Canadians such liberty. If French-Canadians were to break the constitution, what kind of a constitution would they now get from the majority of the people of Canada? Would they get the same rights? No. I believe in the constitution that Cartier got for us. By this constitution the majority of the people cannot harm us. The signature of the king of England is there, and no force can change it one iota." — Speech by

The concession of senatorial districts was held to be necessary to safeguard the sectional interests of the province.

Safeguarding the interests of the French province

"Our Lower Canada friends" — said Brown[1] — "felt that they had French-Canadian interests and British interests to be protected; and they conceived that the existing system of electoral divisions would give protection to these separate interests. We, in Upper Canada, on the other hand, were quite content that they should settle that among themselves, and maintain their existing divisions if they chose. But so far as we in the west were concerned, we had no such separate interests to protect. We had no diversities of origin or language to reconcile; and we felt that the true interest of Upper Canada was that her very best men should be sent to the legislative council wherever they might happen to reside, or wherever their property was located."[2]

Upper chambers as safeguards for the British connection

For the legislative councils of the old British North American provinces the only special claim that was ever made was that as their members were nominated by the crown, acting through the governors, they afforded a safeguard to the British connection. When all the provinces were

Lieutenant-Colonel P. E. Blondin, ex-member of house of commons, grandson of Edmund Barnard, associate of Papineau in rebellion of 1837, at meeting in Montreal, May 7, 1917, to stimulate recruiting of French-Canadians for Canadian overseas forces. — *Gazette*, Montreal, May 8, 1917.

[1] February 8, 1865. [2] Mackenzie, 309.

in possession of representative and responsible government — after 1851 — the legislative councils ceased to have this value, because a governor-general or a governor could appoint to the legislative council only on the recommendation of the executive of the province, which owed its existence from day to day to a majority in the popularly elected assembly, and the maintenance of the British connection was never taken into account by the executive councils in their appointments to the legislative councils.

**The senate and the provinces**

Since Confederation, when the usefulness of the senate at Ottawa has been challenged, it has been asserted that the senate represents the provinces, much in the same way as the senate at Washington represents the states.[1] Quebec, since 1867, has continuously had more peculiar interests to safeguard than any of the other provinces. For French-Canadians, religion and language are the most important of these interests. The population in Quebec of British origin is largely urban. Its special care is the industrial, commercial, maritime, and financial interests of Montreal, which are not the interests of the rural population.

From 1867 to 1913, 113 bills originating in the house of commons were rejected by the senate. An examination of these rejected bills would not

[1] Cf. Wrong, "Second Chambers in Canada," *The New Statesman*, London, February 7, 1914; *Gazette*, Montreal, April 27, 1915.

disclose that many of them assailed the interest of any of the provinces; and it would seem that the claim that the senate represents the provinces and safeguards their interests grows exclusively out of the peculiar interests of Quebec. This much is certain: one of the earliest recognitions of the principle that the senate represents the provinces is contained in the section of the constitution of 1867 that continues for Quebec the senatorial divisions that came into existence in 1856, when for the first time in any country under the British crown, part of the members of the upper house of a legislature were popularly elected, and like members of the lower house were responsible to their constituents.

A claim that stands on only one leg

## III. *Membership of Senate from 1867 to 1916—Provision to End Deadlocks*

At Confederation there were seventy-two senators from the three geographical divisions created in 1867. There were twenty-four from Ontario, twenty-four from Quebec, and twenty-four from the Maritime Provinces. In the years from 1867 to 1905 British Columbia came into Confederation, and Manitoba, Saskatchewan, and Alberta were organized as provinces. Additions to the senate followed the incoming of British Columbia and the organization of the three prairie provinces; and from 1906 to 1916 the number of senators stood at eighty-seven.

Increases in number of senators

Four geographical divisions in senate

In 1916, at the instance of the Dominion parliament, the section of the British North America act that determines the number of senators, and their distribution among the provinces, was amended by parliament at Westminster; and the senate has since consisted of ninety-six members. There are now four geographical divisions:

| | | |
|---|---|---|
| Ontario | | 24 |
| Quebec | | 24 |
| Maritime Provinces | | 24 |
| Nova Scotia | 10 | |
| New Brunswick | 10 | |
| Prince Edward Island | 4 | |
| Canada beyond the Great Lakes | | 24 |
| Manitoba | 6 | |
| Saskatchewan | 6 | |
| Alberta | 6 | |
| British Columbia | 6 | |

Newfoundland's quota

The door to Confederation has always been wide open to Newfoundland. Had Newfoundland thrown in its lot with the Dominion it would, before 1916, have been entitled to four senators at Ottawa. By the 1916 amendment to the British North America act it would now be entitled to six senators.

Provision to end deadlocks of house and senate

In the event of a deadlock between the senate and house of commons additional senators may be appointed; but the number of these appointments has always been fixed by the British North America act and its amendments. From 1867 to the amendment of 1916 the number was three or six — one or two from each division. It is now

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four or eight; and including seats for senators from Newfoundland, until there is another amendment to the British North America act, the total number of senators cannot exceed 110. In the event of the appointment of senators to end a deadlock, the governor-general "shall not summon any person to the senate until each of the four divisions is represented by twenty-four senators and no more."

**Criticism of deadlock provision**

The Fathers of Confederation had to answer criticisms of this provision of the constitution, as they had of the abandonment of the elective principle, the retaining of senatorial divisions only in Quebec, and life membership in the senate. It fell to George Brown to answer all these criticisms, apparently because the criticisms came from Liberals in Ontario, in which province Brown, after the death of Baldwin in 1858, was the leader of the Liberal party.

**Quebec's objection to unlimited increase in numbers of senate**

It was objected that if members of the senate were to be appointed for life the number should be unlimited, so that in the event of a deadlock between the senate and the house there should be power to overcome the deadlock by the appointment of additional members. "Under the British constitution, in the case of a legislative union," said Brown, in answering this criticism, "that might be a legitimate provision. But honorable gentlemen must see that the limitation of the numbers in the upper house lies at the base of the whole compact on which this scheme rests.

It is perfectly clear, as was contended by those who represented Lower Canada in the conference,[1] that if the number of legislative councilors was made capable of increase, you would thereby sweep away the whole protection they had in the upper chamber." [2]

## IV. *Life Tenure of Senators — Salary and Privileges*

Defense of principle of life membership of senate

George Brown was a convert to the principle of life membership in the senate. He frankly admitted his conversion when he was called upon to defend the principle in the legislative assembly. Answering the objection that there ought to be a limit to the term of senators, he told the assembly that he had been in favor of a limited term. "I thought it would be well," he said, "to provide for a more frequent change in the composition of the upper house, and lessen the danger of the chamber being largely composed of gentlemen whose advanced years might forbid the punctual and vigorous discharge of their public duties."

Conception of senate of fathers of Confederation

The objection to this — Brown continued — was very strong. It was said: "Suppose you appoint them for nine years, what will be the effect? For the last three or four years of their term they would be anticipating its expiring, and anxiously looking to the administration of the day for reappointment; and the consequence would be that a third of the members would be under the influence of the executive." The desire was to render the upper house a thoroughly inde-

[1] At Quebec. [2] Mackenzie, 307–308.

pendent body — one that would be in the best position to canvass dispassionately the measures of the lower house, and stand up for the public interests in opposition to hasty or partisan legislation.[1]

**Conditions that vacate seat in senate**

A senator can resign at any time by a writing under his hand addressed to the governor-general; and the seat of a senator becomes vacant in any of the following cases: (1) If for two consecutive sessions of parliament he fails to attend the senate;[2] (2) if he becomes the subject or citizen of a foreign power; (3) if he is adjudged bankrupt, or insolvent, or becomes a public defaulter; (4) if he is attainted of treason or convicted of felony or of any infamous crime; (5) if he ceases to be qualified in respect of property or residence.

**Another constitutional fiction**

It is a constitutional fiction in Canada that wages or salaries are not paid to senators or members of the house of commons, or to members of the provincial legislatures. As a matter of fact wages and traveling expenses have been paid to legislators ever since the first legislature in Canada came into existence in Halifax in 1758. Otherwise the existence of popularly elected

[1] Mackenzie, 308.

[2] The seat in the senate of the oldest senator, Hon. W. J. Macdonald, of British Columbia, has been declared vacant by reason of his absence for two consecutive sessions. He occupied his seat for forty-four years, and was one of the half-dozen left of all the appointments made by Sir John A. Macdonald. The seat of Hon. Dr. J. E. Robertson, of Prince Edward Island, was declared vacant for the same reason, in the same motion. — *Tribune*, Winnipeg, April 29, 1915.

legislatures would have been impossible. But payments to members of parliament at Ottawa, and of the provincial legislatures, are described in enactments and in parliamentary debate, as indemnities; and the constitutional fiction is that these payments are not in return for services rendered, but to recoup members for loss they may sustain in attending to their parliamentary duties.

**Salaries of senators**

Senators and members of the house of commons have always received equal indemnities. For some years after Confederation the payment was $600 per session, with allowances for maintenance on the journeys to and from Ottawa, and a mileage allowance of ten cents a mile.

**Free railway travel and franking privilege**

Several times between 1867 and 1905 the indemnity was increased. For some years it stood at $1500; and in 1905 an act was passed which fixed the payment at $2500 a session. At that time a law was also passed under which senators and members of the house of commons travel free on all Canadian railways. They have also the privilege of franking letters and parcels through the mails, a privilege which members of parliament at Westminster have not enjoyed since the penny post was established in the United Kingdom in 1840. During the session at Ottawa letters can be sent to senators and members of the house of commons free of postage.

## V. *The Chamber of the Senate*

Throne in senate

The chamber of the senate, colloquially known as the red chamber, from the color of the upholstery and hangings, is modeled on the chamber of the house of lords at Westminster. There is no woolsack; for Canada has no lord chancellor to act as the presiding officer of the senate. But, as in the house of lords, there is a throne; for the senate chamber is the scene of the state ceremonial attending the opening and proroguing of parliament.

Scene of state ceremonies

The commons are summoned thither by the gentleman usher of the black rod, when the king's speech at the opening or closing of the session is about to be read in English and French by the governor-general. It is in the senate chamber also that the royal assent is given to bills that have gone through all their stages in both houses.

The bar of the senate

The chair of the speaker of the senate is a little to the left of the dais on which stands the throne; and immediately in front of the chair is the table at which sit the clerk of the parliament and clerk of the senate, and the clerk assistant. The place of black rod is at the bar, at the entrance to the chamber; and it is at this bar that the speaker, the sergeant-at-arms, and the commons stand when they have responded to the summons of black rod to attend on the governor-general in the senate chamber.

The chamber is spacious and handsome, with large galleries for visitors — galleries which are crowded when the governor-general attends in state to open a new session of parliament.

Seating of senators

The house of commons at Ottawa followed the seating plan long in use in the house of representatives, and still in use in the senate, at Washington. Each member sits at a desk. In the senate chairs are provided — a departure from the usage of the house of lords, where, as in the house of commons at Westminster, members sit on benches. The chairs, two deep, face each other the length of the chamber; and between the front rows there is a broad aisle extending from the throne to the bar. Beyond the bar is the antechamber, which is not accounted a part of the senate chamber. Senators who are supporters of the government sit, as at Westminster, to the right of the speaker. Members of the opposition sit to the left.

The cabinet and the senate

Partly in accordance with long usage, and partly in accordance with statute, the ministry at Westminster is divided — usually unevenly — between the house of lords and the house of commons. Every member of the cabinet at Ottawa must by usage be either of the house of commons or of the senate.[1] But neither by usage nor by law

[1] "It was reserved for the Australian Commonwealth act (enacted at Westminster thirty-three years later than the enactment of the constitution of Dominion of Canada) expressly to state that a minister must become a member of the legislature within a prescribed time." — H. E. Egerton, "Federations within the British Empire," 123–124.

is it necessary that any member of the cabinet should be of the senate. There have been cabinets of which no member was of the senate.[1] It is seldom that more than one or two members of the cabinet are of the upper house; and thus it comes about that in the senate chamber there is nothing that corresponds with the treasury bench in the house of commons.

**Government leader in senate**

There is, however, always a leader for the government in the senate. The exposition of the policies of the government is deputed to this leader; and it is his duty to pilot government bills through the upper house.

**Questions**

To the government leader in the senate interrogatories are also addressed; for questions to ministers, with all the advantages, direct and indirect, that accrue therefrom in a democratic form of government, are as much a parliamentary institution at Ottawa as they are at Westminster.

**Opposition leader in senate**

There is also a leader of the opposition in the senate. The member to whom this position is assigned is elected in party caucus — a caucus that under normal conditions is held during the first days of a new parliament. If the new parliament has brought with it a new government,

[1] "At Confederation, and for many years thereafter, ministers holding portfolios sat in the senate. There are none such now. Mr. Loughed leads the senate capably, but he is not the head of a department, and this state of things is not good for the country, nor good for the senate, nor does it tend to strengthen the constitution." — *Gazette*, Montreal (Canada's oldest Conservative newspaper), May 2, 1917.

and if there was a member of the cabinet in the senate of the preceding parliament, the position of leader of the opposition goes, almost as a matter of course, to this senator.

## VI. *A Merging of the Old and the New — Procedure in the Senate*

Dominion parliament and legislature of Upper and Lower Canada

In the early years of Confederation, while the provincial spirit was still strong, it was often a complaint of members of the house of commons from the Maritime Provinces that members from Ontario and Quebec were too much inclined to regard the parliament of the Dominion as an enlargement and continuation of the legislature of the United Provinces. It was not unnatural that the members from what are now the central provinces should so regard the Dominion parliament. It was in the assembly of the legislature of the United Provinces that the struggle for responsible government had been successfully waged. Success in that struggle had paved the way for Confederation. Conditions in the United Provinces had made Confederation imperative and greatly hastened its realization.

New occupants of legislative building of United Provinces

The new parliament had been established in Ottawa, which in 1866 had become the capital of the United Provinces; and it was holding its sessions in a parliament house that had been built for the legislature of the United Provinces.

Party lines as they were developed in the first five years of Confederation were similar to party

Party lines before and after Confederation

lines in the United Provinces. In the early years of Confederation the Liberal-Conservatives ranged themselves on the side of protective tariffs and against democratic electoral franchises, and the Liberals on the side of free trade and democracy, much as had been the alignment of political parties on these questions in the old legislature from 1841 to 1866.

Usages and procedure of old legislature

The usages and procedure of the old legislature, moreover, were continued in the Dominion parliament; and for members of the senate or house of commons who had been of the legislative council or assembly of the United Provinces, there was little outward change after the constitutional transition of 1867.

Procedure in senate

The procedure and ceremonial of the senate of 1917 are little different from those of the legislative council of 1841–1866; for procedure in the earlier era, as in the later, was modeled as closely as possible on that of the house of lords.

Speech from the throne

A new session is opened with the speech from the throne — a speech which is prepared for the governor-general by the cabinet, and in which the legislative work of the session is briefly outlined. An address in reply is adopted, and the senate is then ready for any business that may be awaiting it.

Procedure on bills

Bills originate in the senate — private members' bills and bills for divorce — rather than government bills. Leave to introduce a bill is given by the senate, and the bill is read a first time.

These stages are formal. It is seldom that there is any discussion either of a motion for leave to introduce or at first reading. At second reading the general principle of a bill is discussed; and after being read a second time it goes to committee.

The bill may go to committee of the whole house, or to a standing committee. In either case clauses and details are discussed in committee. It is reported back to the senate, with or without amendment, and is then ready for third reading. At this stage amendments are still possible, and it is also possible to reject a bill at third reading, or to refer it back to committee.

**House amendments to a senate bill**

After a bill is read a third time it is carried to the house of commons, and if amendments are made there it is returned to the senate for concurrence or non-concurrence with the amendments. Discussion between the two houses over bills is by message, not by conference, as is the rule at Washington, and as was the usage at Westminster until 1851.[1]

**Finance bills in senate**

Finance bills, or bills which, if they became law, would impose a charge on the treasury of the Dominion, cannot originate in the senate. The provision that every bill for appropriating any part of the public revenue, or for imposing any tax, must originate in the house of commons, is intended to crystallize the constitutional practice at Westminster, and make it plain that the people

[1] Cf. Porritt, "Unreformed House of Commons," I, 560.

hold the purse-strings.[1] It is within the power of the senate to reject a finance bill, but it can make no amendment to a bill of this character.

**Senate no part in molding tariff bills**

Unlike the senate at Washington, the Canadian senate has no part in originating or molding tariff legislation. Individual senators may have some influence with the cabinet when a tariff bill is being framed by a committee of the cabinet for acceptance first by the cabinet, and then by the house of commons. But as a body the senate has never had any influence in determining the details of that part of the National Policy of the Dominion that centers in the tariff and the bounty system. In such legislation, in practice, the only function of the senate is to give formal confirmation to bills sent to it from the house of commons.

**Senate much less active body than the house**

As regards the initiation of bills, the activities of the senate are much less than those of the house of commons, where most of the members of the cabinet have their seats. In the forty-six years from 1867 to 1913, 5871 bills were passed by the house, and sent to the senate. In this period, 1294 bills, originating in the senate, were sent to the house of commons.

**Bills for divorce**

Bills for divorce, which by usage always originate in the senate, are included in the total of 1294 bills. In the first thirty years of Confederation petitions for divorce were not numerous. In no year before 1900 did the number of divorce

[1] Riddell, "Constitution of Canada," 95.

bills which received the royal assent exceed six.[1] Petitions were few because in the Maritime Provinces and in British Columbia there are courts for matrimonial causes. These four provinces are in practice outside the jurisdiction of the senate as regards divorce. French Canada, from its large Roman Catholic population, presents no petitions for divorce.

Area of Dominion from which petitions for divorce are presented

A few petitions come from the English-speaking and Protestant population of Quebec. Otherwise divorce petitions come only from the part of the Dominion that lies between the Ottawa River and the eastern foothills of the Rocky Mountains; and until 1900 there were not more than two and a half million people in this vast territory. Of these, two millions were in Ontario.

Women as lobbyists for divorce bills

Divorce bills increased in number between 1900 and 1916. There were fourteen in 1906; nineteen in 1911; and in the last five years of this period there were from forty-five to fifty petitions at each session of parliament. At times the precincts of the senate were thronged with women who were lobbying for or against these divorce bills.[2]

Discussion at third reading

These bills, which are discussed at third reading, take up much of the time of the senate. In the common acceptance of the term they cannot be described as legislative measures.

[1] Cf. Canada Year Book, 1911, 429.

[2] Cf. Northrup, "Divorce Bills in the Senate," *Gazette*, Montreal, January 11, 1916.

## VII. *The Senate as a Revising Body — Popular Indifference to its Existence and Proceedings*

**The senate as a revising chamber**

It is a modern claim for the house of lords that it acts as a revising chamber. The same claim is made for the senate at Ottawa. To what extent the senate acts as a revising chamber can to some degree be judged from the record of its work from 1867 to 1913. It amended 1246 of the 5871 bills it received from the house of commons, or 21.5 per cent. It rejected 113 bills, or 2 per cent.[1]

**Senate not an impartial chamber of review**

As furnishing a basis for the claim that the senate is of value as a revising body these figures covering a period of forty-six years are of only limited service. They cannot be taken at their face value. They cannot be accepted as a measure of the service of the senate as an independent and impartial chamber of review, because since 1874, and especially since 1896, it has been well known that the vigilance of the senate in amending or rejecting bills depends on conditions which should have no influence with a really independent or impartial chamber of revision.

**Spasmodic service as a revising body**

In the forty-two years from 1874 to 1916 — a period during which the Liberals were in power from 1874 to 1878, and again from 1896 to 1911, and the Conservatives from 1878 to 1896, and again from 1911 onward — the vigilance of the senate as a chamber of revision was not continuous.

[1] Cf. Ross, "The Senate of Canada," 76.

It was spasmodic. The senate was vigilant only in the years that followed a change of government. Its vigilance depended on whether or not the political complexion of its majority matched that of the administration as supported by the majority in the house of commons.

Second chambers continuously unsatisfactory

Second chambers in the legislatures of the British North American provinces were continuously unsatisfactory from 1791 to 1866. Particularly was this the case with the legislative councils of Upper and Lower Canada and of the United Provinces. [1]

Confederation intended to begin a new era of upper chambers in Canada

In framing the British North America act the Fathers of Confederation desired to create a senate that would begin a new and better era in the history of upper chambers in Canada. The professed expectation of the framers of the constitution was that the upper chamber at Ottawa would be "an independent body, moderating between parties — a body of judicial temper, and of rarer atmosphere than the house of commons." [2]

An expectation not realized

The expectation of 1864–1867 has not been even partially realized. The position of senator is a highly privileged one. He is free from individual claims by constituents on his time and energy

[1] Cf. Durham's Report, II, 82; and H. L. Debates, June 15, 1854.

[2] "The Round Table," III, 719. "The senate was intended to be the drag on the house of commons coach, a check upon hasty legislation arising out of feverish popular agitation." — *Gazette*, Montreal, May 2, 1917.

during the parliamentary session. He takes no part in elections. Political propaganda has never made any large demands on his time. A senator is free constitutionally to play a bold, strong, and independent part in the political life of the Dominion. But privilege and freedom have been of no avail. Senators, as members of one division of parliament, have never played a prominent part, to say nothing of a bold or strong part, in Dominion politics.

**Only five men of national fame in senate from 1867 to 1917**

From Confederation to 1917, George Brown, who was leader of the Liberal party in Ontario; Sir John J. C. Abbott, who was premier of the Dominion 1891–1892; Sir Mackenzie Bowell, who was premier from 1894 to 1896; Sir Oliver Mowat, who was premier of Ontario from 1872 to 1896 and minister of justice at Ottawa from 1896 to 1897; and Sir Richard Cartwright, who was minister of finance at Ottawa from 1874 to 1878, and minister of trade and commerce from 1896 to 1911, were the only men of national fame who were of the senate.

**Senators unknown to "the man in the street"**

Over 300 senators — to be exact, 304 — were appointed in the years from 1867 to 1914.[1] Not more than ten of them were of front rank in Dominion politics, or were men who, after Confederation, earned for themselves even mention in the political history of Canada. Wrong, a writer on Canadian constitutional history of international fame, asserted in 1914 that the average

[1] Cf. Ross, 121–124.

Canadian — Balfour's "the man in the street" — would be puzzled if asked to draw up a list of half a dozen of the senators at Ottawa.[1] A similar statement might have been made at any time in the forty years that preceded the great war.

Popular indifference to senate and its proceedings

Except for an agitation against the senate, carried on by the Liberal party for a few years before the Liberals took office in 1896, the people of Canada have been continuously indifferent to the senate and its proceedings. Canadian newspapers for the most part ignore its debates.

Ignored by newspapers

There is, in practice, no press gallery in the senate. There is ample accommodation for reporters. But the newspapers will not assign men to the senate. A reporter, who is a salaried employee of the senate, furnishes, free of cost, summaries of the debates to all the newspaper correspondents at Ottawa. His work is of little public value; for nine out of ten of the daily newspapers regard senate debates as not worth the cost of telegraph tolls. Similar neglect is the fate of the senate with the weekly and semi-weekly newspapers all over the Dominion.

Popular indifference realized by senate

"A measure or criterion that we have of the value which is placed upon speeches by members of parliament," said Cartwright, government leader in the senate, in 1911, "is the synopsis which we find in the public press from day to

[1] Cf. Wrong, "Second Chambers in Canada," *The New Statesman*, London, February 7, 1914.

day as to what took place in this chamber. We, in this chamber, have appropriated a very substantial sum for the purpose of disseminating to the press a synopsis of our deliberations. And what do we find? We find that the value placed by the press upon these deliberations is indicated in about a quarter of a column in the ordinary newspaper of the day, and sometimes not even that." [1]

**Reason for popular indifference**

The reason for popular indifference to the senate is that its creation in 1867 did not begin a better era in the history of second chambers in Canada. The senate, at no time since 1867, has aroused such intense popular hostility as was aroused by the legislative councils of Upper and Lower Canada of 1791–1840. It has never flouted popular opinion. Nor has it ever entered on a contest with the house of commons over any measure in which there was keen popular interest.

**Never an ambitious branch of legislature**

Unlike the legislative councils of Upper and Lower Canada, the senate has always been free of office-holders. Unlike the legislative councils under the constitution of 1791, also, it has never attempted the position of predominant partner. None the less, part of Newcastle's characterization of the legislative council of the United Provinces in 1854 — his insistence that the council did not exercise the influence in the province that it ought to possess — might be applied to the senate from 1867 to 1917.

[1] Senate Debates, March 29, 1911, p. 508.

Class of men who seek appointment to senate

The senate admittedly has not exercised the influence in the Dominion or in parliament that was expected by the Fathers of Confederation.[1] There are no public records of refusals to accept nomination to the senate as there are to accept membership in the legislative council of the United Provinces. There is never any lack of claimants for appointment — claimants with efficient press agents — when vacancies occur in the senate owing to death or to the automatic ending of the careers of senators in consequence of failure — mostly due to old age — to attend its sessions.

It is a matter of history, however, that a seat in the cabinet has seldom been offered to a senator; and since 1871, when administrations at Ottawa began to have power to make nominations, it has been notorious that the men most anxious to become senators — the men to whom about ninety-eight per cent of the nominations went between 1871 and 1916 — were men who regarded a senatorship and a life salary as their due for services in Dominion or provincial politics to the party in power.

[1] "For one cause or another the senate has scarcely had fair play. When formed, the intention was that it should be non-partisan, a sort of judicial tribunal supervising and reviewing the legislation of the commons with an eye single to the merits of that legislation. In the course of years this purpose has somewhat failed." — *Gazette*, Montreal, May 2, 1917.

## VIII. *The Senate and the Spoils System — Friction between the House and the Senate*

Senatorship a crown of party service

"From the first," writes Wrong, "appointments to the senate came under the full control of the mechanism of the party. The security of the position for life, and the freedom from the labors of an election, have made a senatorship a desirable crown of party service; and to this use the office has been put. The view is generally current in Canada, that only elderly men should be appointed to the senate." [1]

Only party interests considered

"Men who have given long service in the house of commons," continues Wrong, "sometimes claim a senatorship for their declining years. Other claims are from those who have given similar service in the party organization, or it may be have contributed liberally to the party funds. No government, Liberal or Conservative, has made any serious effort to save the post of senator as a reward for any other kind of public service, and in the present condition of public thought it would be quixotic to expect that anything but party interests should be considered." [2]

[1] At the time the Parliamentary Guide for 1912 was compiled, four senatorships were vacant. Of the 83 senators then on the roll, two were under 50 years of age; 14 were between 50 and 60; 24 between 60 and 70; 32 over 70 and under 80; and 11 over 80 years. There have been instances of men of 95 and 96 in attendance as senators.

[2] Wrong, "Second Chambers in Canada," *The New Statesman*, February 7, 1914.

To victors belong the spoils

From the early years of Confederation appointments to the senate were always regarded as the patronage of a political party. The principle that to the victors belong the spoils is nearly as old in Canada as it is in the United States; and in the years before the war at Ottawa its application was almost as wide as it ever was at Washington.

From Confederation to 1918, when, as a war measure, there was some reform in the distribution of patronage, the principle was continuously applied to the speakership of the house of commons and of the senate,[1] and to appointments to the higher positions on the clerical staff of parliament, to appointments as judges, and to many of the prized positions in the civil service of the Dominion. The principle was also applied to a large range of government purchases of supplies, and particularly to contracts for printing and advertising, which went only to newspapers which supported the political party in power.[2]

[1] The speaker of the senate, who is paid a salary of $4000 and provided with an apartment within the parliament building, is appointed by the government. The speaker of the house of commons, who also receives $4000 a year and is provided with an apartment, is elected by the house at the opening of a new parliament. But the successful candidate for the chair is in practice always nominated by the government.

[2] On the order paper of the house of commons on April 25, 1917, there was notice of a resolution to be moved from the opposition benches condemning the spoils system. It read as follows: "That, in the opinion of this house, the prevailing system of party patronage constitutes a menace to honest

Senate and the spoils system

The spoils system was most rigidly adhered to in appointments to the senate. "In nearly half a century," writes a Canadian critic of the senate, "the claims of party have been ignored in only a single appointment. The Canadian constitution reposes a vast patronage in governments. The situation in Canada is exactly the situation that would exist in the United States if the president appointed every senator, every state governor, and every federal and state judge throughout the Union. This is perhaps the reason why changes of government occur so seldom in the Dominion. The prospect of a life seat in the senate attracts many powerful supporters in the constituencies. It assists discipline, and reduces contumacy in the house of commons." [1]

Friction between senate and house infrequent

Friction between the senate and the house of commons is infrequent. It occurred in the quarter of a century before the great war only in the first few years of the Liberal government of 1896–1911, and in the first few years of the Conservative government that was in power from 1911 to 1917. In each case the friction was traceable to the fact that both political parties

and efficient government, incites to great waste of resources and extravagance, in its application to expenditures and appointments for military purposes, greatly injures the proper fulfillment of our duty to the nation, tends inevitably to corrupt and lower the tone of public morals, and should forthwith be eliminated from our federal administration."

[1] "The Round Table," III, 719–722.

had appointed none but partisans to the senate when the appointing power was in their control.

Appointments to senate from 1867 to 1873

The first seventy-two members of the senate were appointed by royal proclamation. These appointments had been agreed upon before the new constitution became effective. From 1867 to 1873 a Conservative government, with Macdonald as premier, was in power. As vacancies due to death occurred, and as additional provinces came into Confederation — Manitoba in 1870 and British Columbia in 1871 — the appointments to the senate were made by Macdonald. Thirty-two senators had been so appointed before Macdonald went out of office in 1873. Only one was of the Liberal party.[1]

Liberals long in minority

A Liberal government, with Alexander Mackenzie of Ontario as premier, was in power from 1873 to 1878; and in these years sixteen senators, all of the Liberal party, were appointed. Macdonald and the Conservatives were returned to power in 1878, and the Conservatives were continuously in office until 1896. In these eighteen years eighty-five senators, all Conservatives, were appointed by the successive Conservative governments. The result was that when the Liberal government, with Laurier as premier, came into power in 1896, it was confronted with the fact that out of eighty-three senators, only thirteen, all appointed before 1878, were of the Liberal party.

[1] Cf. Willison, "Some Political Leaders in the Canadian Federation," 50.

**The position reversed, 1896-1911**

The Liberals were in power from 1896 to 1911. Eighty-one senators, all Liberals,[1] were appointed in these fifteen years; and when the Conservatives, with Robert L. Borden as premier, took office in 1911, of the eighty-seven senators only twenty-two were Conservatives.

**Partisan activity of senate**

After each of these changes in government in 1896 and 1911, when the majority of the senate realized that for four or five years, at least, it would be in opposition to the government, and to the majority in the house of commons, there was a quickening of activity in rejecting and amending government bills. The power of revision was exercised from 1896 to 1901, and from 1911 to 1916, with a vigilance that was altogether lacking in the longer periods when the majority of the senate was of the same party as the majority of the house of commons and the government.

## IX. *Attitude of Political Parties towards the Senate*

**Measures of Liberal government rejected**

In the years 1896–1901, during which the Liberal government was confronted with a hostile majority in the senate, the senate rejected four or five

[1] "Sir John Macdonald appointed John Macdonald, of Toronto, to the upper chamber. But the Conservative leader never found any other Liberal with the necessary qualifications for a senatorship. From 1878 to 1902 no Liberal was appointed chairman of a senate committee. We cannot trace to Liberal governments — 1874–1878 and 1896–1911 — even one such error as Sir John Macdonald committed." — Willison, "Some Political Leaders in the Confederation of Canada," 50.

government bills. One was a measure for extending the Intercolonial Railway — a government undertaking — from Levis to Montreal. Another bill, rejected in 1897, would have authorized the construction of a government railway from the Stickene River to Teslin Lake — a railway which was designed to form part of the rail and water route to Dawson City.

Same fate for measures of Conservative government

The senate between 1911 and 1916, when a Conservative government was faced with a Liberal majority, rejected six or seven bills, or so amended bills as to make them unacceptable to the house of commons and the government. One of these measures was a bill, passed by the house of commons in 1912, under which Canada was to provide three battleships as an addition to the British navy. A second bill, also in 1912, was for the creation of a permanent tariff commission; and a third, passed by the house in 1914, was to provide for increases in the salaries of railway mail clerks.

Eras of harmony and docility

With harmonious majorities in the senate and house of commons, government bills are never rejected, or even amended in any way that is unacceptable to the government. At these times there is not a more docile second chamber in the English-speaking world than the senate at Ottawa.

A "me too" of house of commons

At these times its sittings for public business are not continuous from day to day like the sittings of the house of commons. Sittings seldom extend beyond the dinner hour; for almost

the sole business of the senate as regards government bills is to say ditto to the house of commons.[1] Only a new government, which is temporarily without a majority in the senate, need fear the power that the senate can exercise as a chamber of revision.

**Senators never resign**

The incoming governments of 1896 and 1911 strongly objected to the hostility encountered by some of their bills in the senate. So did the supporters of these governments in the house of commons and in the press. But time is on the side of the government.[2] Senators never resign except when, as sometimes happens, they are appointed lieutenant-governors of provinces. But most of them are elderly. Death or failure to attend for two consecutive parliamentary sessions creates on an average five or six vacancies a year.

**Waiting list**

No matter which political party is in power, there is always a long waiting list for appointment to the senate. On the list are names of men in the house of commons, who are tired of close attendance on the house, with the physical and nervous strain it entails, and tired also of contested elections and of being at the beck and call of constituents.

[1] "If there be any pertinent criticism to be made of the senate, it is that the chamber has fallen into a state of desuetude. It has become in a way a mere recording body, a 'me too' machine. This condition is far from desirable." — *Gazette*, Montreal, May 2, 1917.

[2] Cf. Riddell, "Constitution of Canada," 102.

Men are also on the list who have held cabinet office in provincial administrations, and who are out of a job. Others are owners or editors of newspapers, who conceive that a seat in the senate, a salary of $2500 a year, a luxurious clubhouse in Ottawa, free of annual dues, and free railway travel over the Dominion, would be some return for the services they have rendered to their political party.

**Men on the waiting list**

As vacancies in the senate occur or come into sight, the agitation for senate reform, growing out of irritation over the rejection of the bills of a new government, completely dies away. The demand ceases to interest the politicians in power as the procession of the government's nominees into the senate increases in length.[1]

**Evanescent demands for senate reform**

The Conservatives were in a minority of forty-three in the senate in 1911, when the Borden government was organized. New appointments by May, 1914, had decreased the adverse majority to six. "Nature," wrote a Canadian chronicler of the changes in the senate from 1911 to 1914, "may be fairly depended upon to wipe out the surplus of Liberal senators before next session;[2] and then with the Conservatives in control, the senate can be counted quite a model body, which needs no change."[3]

**Nature settles difficulties with the senate**

[1] Cf. Riddell, "Constitution of Canada," 102–103.

[2] Deaths of senators were so frequent in the first six years of the Borden government that by April, 1917, the minority of forty-three of 1911 had become a majority of eight.

[3] *Mercury*, Renfrew, Ontario, May 8, 1914.

And is non-partisan

This was the attitude of the Conservative government, and its house of commons supporters, toward senate reform after nature and the government had adjusted the balance of power in the senate. The attitude of a Liberal government is precisely the same when once it is in possession of a majority in the senate.[1]

Senate reform ignored by liberals in power

The Liberals came into power in 1896 after a general election in which they had gone to the constituencies on the Ottawa program of 1893. The new government chafed for four or five years under the disadvantage of an adverse majority in the senate. But as vacancies occurred the government filled them with its nominees; and despite the fact that the resolution of 1893, pledging the Liberal party to a reform of the senate,[2] was submitted to the Ottawa convention by three men who were afterwards of the cabinets of 1896–1911, not a word was heard from the government about senate reform during the fifteen years that the Liberals were in power.[3]

[1] "Since advocacy of senate reform is the strict and inalienable prerogative of oppositions, the senate as now constituted seems to rest upon a reasonably stable foundation." —Willison, "Some Political Leaders in the Canadian Federation," 51.

[2] Cf. Official report of the Liberal convention, Ottawa, 1893, 134.

[3] "Notwithstanding the fact that one of the planks of the Liberal platform in 1893 was the reform of the senate, during the whole fifteen years the Liberal party were in power, there was no reform of the senate other than through the efforts

Public services of senate

The senate has been of some little service in improving details of bills sent to it from the house of commons. For five provinces also it has served as a divorce court. These are its public services.

Its services to political parties

Two distinctly party services have also been rendered by the senate. Twice since 1896 its existence has made it possible for a political party, defeated at a general election, to harass and thwart a new government. Its existence also has added quite largely to the patronage of governments, and has thus enabled governments to keep in line and under party discipline a far larger number of active and office-seeking partisans than is represented by the actual number of appointments made by any government to the senate.

Its peculiar interest to students of parliamentary institutions

The senate, chiefly by its failure to realize the professed expectations of the Fathers of Confederation, by its failure to make a beneficent impression on politics in Canada, or at any time in its fifty years' existence to convince the people of Canada that it was of any possible public usefulness,[1] is, from the standpoint of students

of Divine Providence. No action along that line was taken by the government or by any member supporting the government, with the exception of Mr. MacIntyre." — W. M. German, Liberal member from Ontario, in debate on constitution of senate, house of commons, May 7, 1917.

[1] "W. M. German's proposal in the house of commons today to reform the senate by making it elective instead of selective, met with little favor. The mover of the resolution

of the working of parliamentary institutions, the most interesting second chamber in the English-speaking world. It is especially so, when it is kept in mind that it represents the fourth attempt since 1791 to establish a second chamber, modeled after the house of lords, in the portion of the British empire that is now comprised in the Dominion of Canada.

and all others who took part in the debate paid tribute to the personnel of the senate, past and present, but regretted that it had ceased to be an active legislative body, and in a measure lost the confidence of the people." — Ottawa correspondence, *Gazette*, Montreal, May 7, 1917.

# CHAPTER XII

## THE HOUSE OF COMMONS

Number of members

IN the first session of the first parliament of the Dominion there were 181 members of the house of commons. Ontario was represented by 82 members; Quebec by 65; Nova Scotia by 19; and New Brunswick by 15. After the redistribution of representation in 1914, the number stood at 234.[1] In 1867, when only four provinces were in Confederation, the population of the Dominion was 3,250,000; at the census of 1911, on which the redistribution of 1914 was based, it was 7,206,000.

In the intervening forty-four years two of the old British North American provinces, British Columbia and Prince Edward Island, had come into the Dominion; and parliament at Ottawa, by virtue of amendments to the constitution which had increased its powers, had created the provinces of Manitoba, Saskatchewan, and Alberta, and had conferred on these provinces, and also on the Yukon Territory, the right to representation in the house of commons.

[1] Cf. An act to readjust the representation in the house of commons, assented to June 12, 1914 — 4-5 George V., c. 51.

## I. *The Distribution of Representation*

Apportionment of representation

These additions to the membership of the house were made in strict accordance with section 51 of the British North America act, the section which defines the powers of parliament in the apportionment of representation among the several provinces.

Section 51 — a disturbing section since 1903 to the older provinces, which, under its strict provisions, must submit to reductions in their representation — reads as follows:

> On the completion of the census in 1871, and on each subsequent decennial census, the representation of the four provinces shall be readjusted by such authority, in such a manner, and from such time, as the parliament of Canada shall from time to time provide, subject and according to the following rules:
>
> (1) Quebec shall have the fixed number of 65 members.
>
> (2) There shall be assigned to each of the other provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number 65 bears to the number of the population of Quebec (so ascertained).
>
> (3) In the computation of the number of members for a province, a fractional part, not exceeding one half of the whole number requisite for entitling the province to a member shall be disregarded; but a fractional part exceeding one half of that number shall be equivalent to the whole number.
>
> (4) On any such readjustment, the number of members for a province shall not be reduced unless the proportion which the number of the population of the province bore to the number of the aggregate population of

Canada at the then last preceding readjustment of the number of members for the province is ascertained at the then latest census to be diminished by one twentieth part or upwards.

(5) Such readjustment shall not take effect until the termination of the then existing parliament.

Losses at redistribution

At each decennial redistribution of representation, parliament when it enters on this task is confronted with these provisions of the constitution; and when, as in 1903 and again in 1914, the older and more settled provinces of Ontario, Nova Scotia, New Brunswick, and Prince Edward Island know, from the census returns, that they are to lose some part of their representation, there is a reminder from the minister who introduces the redistribution bill that no blame can rest on parliament for the losses that provinces must undergo.

## II. *Quebec the Pivotal Province*

Parliament not free in enacting redistribution bills

"We have," said Laurier, premier of the Liberal administrations of 1896–1911, when he introduced the bill of 1903, "only to take the provisions of section 51 of the constitution, and the figures of the census, and find the result. In this matter parliament is not a free agent. It has no discretion to exercise. It is simply the instrument and creature of the law. In this particular bill we have only to take the result of the census of 1901, and make the redistribution accordingly. We give to each province

the number to which it is entitled, some having less, some more, but all being bound by the same rule."[1]

Quebec quota unalterable

Quebec is the only province which can look on without direct concern when a redistribution bill is before the house of commons. Increased representation for the new provinces, and for British Columbia, the four provinces which, after 1900, attracted much of the stream of immigration, may lessen the influence and weight of the French province at Ottawa. But no matter what the census returns may show, Quebec's quota of sixty-five remains unalterable, unless there is an amendment to section 51 — an amendment of which during the first half-century of Confederation there was not even a hint at Ottawa.

Unit of representation

In the redistribution of representation Quebec is thus the pivotal province. "Taking the population of Quebec at 2,003,232," said Borden, premier of the Conservative government that was responsible for the redistribution bill of 1914, "and dividing it by 65, we obtain the unit of 30,819. Applying this unit to the population of the various provinces, we find that Alberta is entitled to a membership of 12.12 — the decimal is disregarded, and Alberta receives a membership of 12. In the case of British Columbia, the number is 12.70. The decimal being in excess of five, British Columbia receives a membership of 13."[2]

[1] H. C. Debates, March 31, 1903.
[2] *Ibid.*, February 10, 1914.

Changes in representation since 1892

The territories west of the Great Lakes came into the parliamentary representation at the redistribution of 1892. Four members were then assigned to what were called the northwest territories. It was 1905 before portions of these territories were organized as the provinces of Saskatchewan and Alberta. The changes in the representation brought about since 1892 by the operation of section 51 of the British North America act, and by the amendments made to it at Westminster in 1871 and 1886, are recorded in the accompanying table:

| Province | 1892 | 1903 | 1905 | 1914 |
|---|---|---|---|---|
| Ontario | 92 | 86 | 86 | 82 |
| Quebec | 65 | 65 | 65 | 65 |
| Nova Scotia | 20 | 18 | 18 | 16 |
| New Brunswick | 14 | 13 | 13 | 11 |
| Manitoba | 7 | 10 | 10 | 15 |
| British Columbia | 6 | 7 | 7 | 13 |
| Prince Edward Island | 5 | 4 | 4 | 3 |
| Northwest Territories | 4 | 10 | .. | .. |
| Yukon | .. | 1 | 1 | 1 |
| Alberta | .. | .. | 7 | 12 |
| Saskatchewan | .. | .. | 10 | 16 |
| Totals | 213 | 214 | 221 | 234 |

Electoral franchises determined by provincial legislatures

The Dominion parliament has left to the provincial legislatures the determination of the franchises on which members of the house of commons shall be elected. This is in accordance with the federal principle — the principle which from the first has prevailed in the United States. To the state legislatures also has been assigned,

from the first, the division of the states into congressional districts.

Electoral divisions determined by parliament

Canada has not followed the example of the United States in the redistribution of representation. It has never permitted the provincial legislatures to map out the electoral divisions or constituencies from which representatives of the province are elected to the house of commons.

## III. *The Era of the Gerrymander*

Partisan redistributions

The first three redistributions of representation — those of 1872, 1883, and 1892 — were made by Conservative governments, and in the re-arrangement of the constituencies in 1882 and 1892 the Liberal minorities in the house of commons were not permitted any part. The Liberal opposition, led in 1882 by Edward Blake and in 1892 by Wilfred Laurier, had no more say in the redistricting of the provinces than they had in the redistribution of seats at Westminster which accompanied the extension of the parliamentary franchise in the United Kingdom in 1884.

Redistribution regarded as privilege of party in power

The bill of 1882, allotting each province its quota of members, was introduced in the house of commons. As part of the bill there was a schedule of the electoral divisions in each province. It was useless for the opposition to take a map, as they could have done, and show how glaringly some constituencies had been gerrymandered in the interest of the Conservative party. The decennial redistribution of repre-

sentation was regarded in those days as offering an opportunity to advance the interests of the political party that was in power.

"Hiving the grits"

During the Conservative régime of 1878–1896 there was no pretense to fairness in the readjustment of the parliamentary constituencies. The phrase, long in use in Dominion politics, "hiving the grits," had its origin in those years. It described the throwing together of communities that were predominantly Liberal, without heed to county boundaries, to make other constituencies safely Conservative. Gerrymandering began in 1872. It was particularly rampant at the redistributions of 1882 and 1892.[1]

Party bitterness

At no time in the first fifty years of Confederation was party bitterness more marked than in the years from 1878 to 1896. Much of the bitterness, a bitterness which characterized debates in the house of commons, and political discussions on the platform and in the press, grew out of the gerrymanders. It was partly attributable to other partisan legislation affecting elections by the Conservative government. It was partly attributable to a manipulation of electoral franchises in 1885, which was not corrected until 1898, when a Liberal government repealed the act of 1885 and established the

[1] "Gerrymandering is a Yankee institution, a Yankee invention which the National Policy — the policy of a high tariff — does not keep out of Canada." — Sir William Mulock, Ottawa Liberal convention, June 21, 1893.

principle that under the federal system the electoral franchises must be determined, not by the federal parliament, but by the legislatures of the provinces.

**Liberals committed to non-partisan redistribution**

The Liberals persistently denounced the gerrymanders when the bills of 1872, 1882, and 1892 were before parliament. They were denounced also at the general elections of 1882, 1887, and 1891; and in 1893, when the Liberal national convention was held at Ottawa, a resolution was adopted that committed the Liberal party to a reform in the method of redistributing the provinces for representation in the house of commons.

"To put an end to this abuse, to make the house of commons a fair exponent of public opinion, and to preserve the historic continuity of counties," continued the resolution, "it is desirable that in the formation of electoral divisions, county boundaries should be preserved, and that in no case should parts of different counties be put in one electoral division." [1]

## IV. *The Reform of 1903*

**Liberals implement their pledge**

At the general election in 1896 the Liberals were returned to power. In 1903, for the first time in the history of the Dominion, a Liberal government was responsible for framing and carrying through parliament a bill for a redistribution of the representation. The government

[1] Official Report, Ottawa Liberal convention, 129.

availed itself to the full of the opportunity to fulfill the pledge made in the years when the Liberals were in opposition.

**Partisan redistributions recalled**

We on this side of the house — said Laurier, when he introduced the bill in the house of commons — have always complained that in previous redistributions the opposition was unfairly treated. In 1892 we proposed a conference over the bill — a conference at which there should be representation of both political parties. But though our proposition was not accepted, we do not intend to depart from the principle which we then laid down. What we claimed for ourselves when we were in a minority, we are now ready to grant to our opponents when they are in a minority.

**Electoral map arranged by conference**

There is no schedule to this bill. If this bill is accepted by our friends on the other side of the house, we intend, after it has been debated, and read a second time, to refer it to a special committee composed of seven members, on which the opposition will be represented by three, to be selected by themselves. We propose to invite our friends now sitting on the opposition benches to meet us in the committee room, and there discuss with us the division of the constituencies which shall be empowered to elect the members of this house.[1]

**Conservatives in 1914 also adopt conference plan**

The complete fulfillment by the Liberal government in 1903 of a pledge which had been given by the Liberal party when it was in opposition, ended permanently, it would seem, the scandals of the gerrymander. The Conservatives were in opposition from 1896 to 1911. But from 1903 to 1911 they had no grievance with regard to the arrangement of electoral divisions; and in 1914, when a Conservative government was

[1] H. C. Debates, March 31, 1903.

responsible for a redistribution bill, the precedent of 1903 was followed in all details.

The bill was introduced by Borden. Again no schedule was attached; and after the bill had been read a second time, the readjustment of the electoral divisions was relegated to a special committee on which were four representatives of the majority in the house of commons and three of the Liberal opposition.[1]

### V. *Inequalities in Electoral Divisions*

**No equal electoral divisions**

Equal electoral divisions have never been attempted by either Conservative or Liberal governments. Favorable treatment has always been accorded to the rural divisions. Under the apportionment of 1903, Soulanges, a rural division of Quebec, with a population of 9400, had one member of the house of commons, and there was only one for Maisonneuve, a manufacturing and residential suburb of Montreal, which according to the census of 1901 had a population of 170,987. Lisgar, a rural division of Manitoba, had a population of 23,501. In Winnipeg, which, like Lisgar, had then one member, the population was 128,157.[2]

**Larger units for urban divisions**

Both political parties accept the principle of a larger unit for urban than for rural constituencies. Borden recalled this fact when he was

[1] Cf. H. C. Debates, February 10, 1914.
[2] *Ibid.*, February 10, 1914.

piloting the redistribution act of 1914 through the house of commons.

It is said — the premier reminded the house — that in a city there ought to be a higher unit, for the reason that a city possesses greater solidarity and compactness. Its interests are more uniform, and they can make themselves felt more effectually and cogently than the interests of a rural constituency. It is said also that many men who represent rural constituencies reside in the cities, and in that way the cities have a certain voice in the legislature which is denied to rural constituencies.

Community of interest and historic associations

Importance also has been laid by some members of this house upon the argument that there is perhaps a more stable interest in those who dwell upon the land than is to be found in the case of a certain floating element of city population. Finally there is the English principle of community of interest, compactness and historic association — a principle that is always regarded in British redistribution bills.[1]

These arguments in favor of a smaller unit of population for rural than for urban constituencies were accepted and indorsed by Laurier.

Large rural divisions

Without going into all the reasons — he said — there is one supreme reason. It is that in a country like Canada, where there is a very large territory with a sparse population, if you give the same unit of population to cities and counties, in rural constituencies you would have such a large area of territory as to be almost impossible to cover. That is quite sufficient to justify the principle which has been adopted on every occasion on which we have had a redistribution.

Unlike the older universities of England, Ireland, and Scotland, none of the fourteen universities of Canada elects a member to the house of commons. It was intended by the legislature of Upper Canada that there should be a university

[1] H. C. Debates, February 10, 1914.

constituency in that province. An act was passed in 1820 (Geo. III, c. II § IV, St. of Upper Canada) by which it was provided "that whenever an university shall be organized, and in operation as a seminary of learning in this province, and in conformity to the rules and statutes of similar institutions in Great Britain, it shall and may be lawful for the governor to declare by proclamation the tract of land appendant to such university, and whereupon the same is situated, to be a town or township, and that such town or township so constituted, shall be represented by one member." "No person," continues the section, "shall be permitted to vote at any such election for a member to represent the said university in parliament, who besides the qualification now by law required shall not also be entitled to vote in the convocation of the said university." There was, however, no election of a member for the university between 1820 and the union of Upper and Lower Canada in 1840. At the union of the provinces there was no mention of university representation, and no suggestion of it at Confederation.[1]

**Single-member constituencies**

With only three or four exceptions, all the 234 electoral divisions are single-member constituencies. Divisions of counties are known as "ridings," a term that has been in use in British parliamentary geography at least since 1821, when the right to elect two members was transferred from the long notoriously corrupt borough of Grampound to the West Riding of Yorkshire.

**Constituencies distinguished by name**

The term "division" is applied only in cities in Canada which return three or more members. Electoral divisions are not numbered, as in the United States. Geographical names are used, such as Toronto East, or Toronto West; and

[1] H. C. Debates, February 17, 1914.

such names as Algoma, Frontenac, Two Mountains, Antigonish, Pontiac, and Yale Caribou are given the ridings of counties.

"The honorable member for —"

As a member of the house of commons must never be mentioned in debate by name, but always referred to as the honorable member for Pontiac or whatever consituency he represents, both a new and an old world flavor is imparted to debates by giving names instead of numbers to all the constituencies that elect members to Ottawa.

## VI. *Unsuccessful Experiment with a Uniform Dominion Franchise*

Elections from 1867 to 1882 on provincial franchises

At Confederation a large measure of freedom was conferred on the Dominion parliament in regard to the franchises on which the house of commons at Ottawa is elected. By section 41 of the British North America act, it was provided that until the parliament of Canada otherwise decided the electoral laws of the provinces should apply to the election of members of the house of commons.

Influence of British reform act of 1867 on electoral franchise

The year of the passage of the British North America act was the year in which, for the first time in modern history, all male householders in parliamentary boroughs in the United Kingdom were enfranchised. It was a great step towards democracy when the British electoral law of 1867 was enacted; and there is some reflection of the new democratic spirit in the section of the

British North America act which was applicable to Algoma.

**Household suffrage in Algoma**

Algoma is today included in the province of Ontario. In 1867 it was a territory; but it was then contemplated that it would have representation in the house of commons at Ottawa; and by section 41 of the act it was decreed that until the parliament of Canada otherwise provided, at any election for a member of the house of commons from Algoma, in addition to persons qualified by the law of the United Provinces of Ontario and Quebec to vote, "every male British subject, aged twenty-one years or upwards, being a householder, shall have a vote."

**Conservatives agitate for uniform franchise**

At five general elections after the British North America act had come into operation — in 1867, 1872, 1874, 1878, and 1882 — members of the house of commons were chosen on franchises which had been determined by the provincial legislatures. They were elected on the same franchise as members of the legislature.

With the exception of the election of 1874, at each of these general elections the Conservative party was returned to power. Macdonald was premier of all these Conservative governments; and Macdonald, and a group of Conservative members, of extreme Tory politics, who were closely associated with him, never liked the federal principle applied to electoral franchises.

Macdonald, in the first session of the first parliament of the Dominion, assailed this prin-

ciple; and between 1867 and 1885 he introduced no fewer than six or seven bills with the object of transferring from the provincial legislatures to parliament the determination of the franchise for elections to the house of commons. But the Liberal opposition stood out for the federal principle, and Macdonald could not persuade all his Conservative supporters to vote with him. It was 1885 before he succeeded in carrying the Dominion franchise bill through parliament.

Federal franchise of 1885-1898

Under this law of 1885, a uniform franchise was established in all the provinces. The right to vote was given in respect of eight qualifications. These were (1) owners and occupiers of real estate of the value of $300 in a city, and $200 in a town; (2) persons in receipt of incomes, or yearly earnings of at least $300 from some profession, office, trade, or investment in Canada; (3) life annuitants of $100 a year; (4) farmers' sons, living at home; (5) sons of owners of real property; (6) tenants of real property paying more than $2 a month rental; (7) fishermen owning boats, nets, fishing gear, or shares in a registered ship to the actual value of at least $150; and (8) Indians in possession and occupation of distinct tracts of land in an Indian reserve, the improvements on which were valued at not less than $150.

Eight gateways to the franchise

The act created a wide franchise, but it was a franchise based on property. It was thus in accordance with the principles then held both by

Property as basis for vote

the Conservative party in England and by the Conservative party in Canada. It was contrary to the principles of the Liberal party in Canada, which as regards the franchise had outrun the Liberal party in England and Scotland; for it was committed to the principle of manhood suffrage, a principle that by 1885 the Liberals in Ontario and in other provinces had already carried into law.

**Argument for federal franchise**

Macdonald's case for substituting a Dominion franchise for the provincial franchises of 1867–1885 was that the old plan was an anomaly. "It is quite contrary," he said, "to first principles. The representatives of the people in parliament, representing the people in a Dominion sense, must have, and ought to have, control of all reforms and changes in the representation."

**Civil servants and the franchise**

In some of the provinces, notably in the Maritime Provinces, which are served by the Intercolonial Railway — the government railway — the legislatures had excluded men on the pay roll of the Dominion government from the franchise. Macdonald had these exclusions in mind when he submitted his case for the Dominion franchise to the house of commons. "It is out of the question," he said, "that we here, representing the people of the Dominion as a whole, should find ourselves, for local reasons or local purposes, in any given province, actually deprived of people who would elect us." [1]

[1] H. C. Debates, April 16, 1885.

Ostensibly uniformity and the estopping of provincial legislatures from excluding civil servants of the Dominion from the franchise were the grounds on which the act of 1885 was based. Another reason for it undoubtedly was the fact that the act placed the compiling of the electoral lists in the hands of nominees of the government, and also added largely to the patronage of the government. More patronage

It was provided by the act that there should be a revision of the electoral rolls each year. The first revision in 1886 entailed an expenditure of over $400,000. The government was afraid to ask parliament for annual appropriations on this scale. It therefore carried through parliament bills suspending the sections of the act of 1885 which made annual revisions of the electoral rolls mandatory; and although the law was on the statute book from 1885 to 1898, there were only three revisions of the rolls. Revision of electoral rolls

There were seven provinces in 1885. In five of them — British Columbia, Manitoba, Ontario, New Brunswick, and Prince Edward Island — manhood suffrage had been established by act of the legislature. In Quebec and Nova Scotia the franchises were based on property — on qualifications not much unlike those of the Dominion franchise of 1885. Manhood suffrage

In all the provinces the Dominion act was condemned as a departure from the federal principle. By the Liberal party it was also Opposition to federal franchise

condemned because it was opposed to Liberal principles, and because of the jobbery and manoeuvering in the interest of the Conservative party which it made possible.

**Liberals pledge themselves to repeal act of 1885**

The Liberals from 1885 to 1896 denounced the Dominion franchise act — in parliament, on the platform, and in the press — as strongly and persistently as they denounced the gerrymandering of electoral divisions by the redistribution acts of 1872, 1882, and 1892. At the national convention of 1893 — the only national convention of the Liberal party in the first fifty years of Confederation — the party committed itself to the repeal of the act of 1885.

It pledged itself to repeal on these grounds:

> That the act since 1885 had cost the Dominion treasury over a million dollars, besides entailing heavy expenditures on both political parties.
>
> That the heavy cost had prevented annual revisions of the electoral rolls, as originally intended; and in the absence of such revisions, young voters, entitled to the franchise, had in numerous instances been prevented from exercising their natural rights.
>
> That the act had failed to secure uniformity, which was the principal reason assigned for its introduction.
>
> That it had produced gross abuses by partisan revising barristers appointed by the government; and
>
> That its provisions were less liberal than those already existing in many provinces of the Dominion.[1]

[1] Official Report, Liberal convention, 1893, 122.

## VII. *The Return to Provincial Franchises*

Reversion to provincial franchises

Two years after the Liberal government came into power it implemented this pledge of 1893; and since 1898 members of the house of commons have again, as from 1867 to 1885, been elected on the same franchises as members of the provincial legislatures. "The qualifications necessary to entitle any person to vote at a Dominion election in any province," reads a section of the election code, as it was enacted in 1898, "shall be those established by the laws of that province as necessary to entitle such person to vote in the same part of the province at a provincial election."

Safeguarding franchise of civil servants

The objection that Macdonald made in 1885 to the electoral laws of the provinces — the objection that in some of the provinces employees of the Dominion government were denied exercise of the franchise — was not overlooked at the remodeling of the electoral code in 1898. A section was embodied in the act which provides that no person, otherwise qualified as an elector, shall be disqualified from voting at a Dominion election because he is employed in any capacity in the public service of Canada or of a province.

Conservatives accept reform

Only the strong and forceful personality of Macdonald, and the whip hand he constantly kept of his followers in the house of commons, enabled the Conservative government to carry the Dominion franchise act of 1885. It was greatly disliked by quite a number of Conserv-

atives in parliament and in the constituencies. In 1898, when the law was repealed, there were no expressions of regret, and no protests from the Conservative benches.

**Electoral reforms of Liberal government**

For six years after 1911 a Conservative government was again in power. It did not revert to the old system; and redistribution of seats effected by conference between the representatives of both political parties at Ottawa, and provincial electoral franchises as the franchises on which members of the house are elected, would now seem to have become permanently established as usage and law.[1] Credit for both these demo-

[1] During the parliamentary session of 1917 a war-time elections act was passed. It enfranchised the wives, widows, mothers, and sisters of Canadian soldiers and sailors, who had gone overseas to serve with the British military and naval forces; disqualified British subjects "of alien enemy birth, or of other European birth, or of alien enemy mother-tongue or native language," who had been naturalized later than March 31, 1902; and also disqualified men who had been exempted from military service, or had applied for exemption from the operation of the conscription act of 1917, on the ground that they had conscientious objections to serving with military forces. "Its provisions," said Meighen, secretary of state, in introducing the bill in the house of commons, are to operate only during the period of the present war and of demobilization thereafter. That is to say, so far as the bill amends the Dominion elections act, it amends it only to cover the now apparently certain event of an election during the war or before demobilization. After that the bill ceases to affect the Dominion elections act; the general law becomes the same as it was before, the same as it is today." — H. C. Debates, September 6, 1917.

cratic reforms must be given to the Liberal government of which Laurier was premier.

Qualifications of electors

The general requisites for voting at Dominion elections are that a man shall be a native-born Canadian, or a subject of the king by birth or naturalization; that he shall be of the full age of twenty-one; and not disqualified by reason of insanity or by conviction of crime.

Manhood suffrage in seven provinces

Manhood suffrage has been long established in all the provinces except Nova Scotia and Quebec. The residential qualification in the manhood-suffrage provinces varies from six months in Manitoba, to a year in British Columbia. Residence in the electoral division varies from one month in Manitoba, to nine months in Ontario — nine months before the time fixed by law for the opening of registration.

Property qualifications in Nova Scotia

In Nova Scotia, where representative government has been established longer than in any other outlying part of the British Empire, the vote is based on real or personal property, or the occupation of real estate. Nova Scotia has clung with tenacity to the ancient English principle in regard to the franchise. One qualification is assessment of real property valued at $150 or over, or of personal property or real and personal property together valued at $300. Men with an income of $250 a year are entitled to vote; so are fishermen, with boats and gear and real estate assessed at an actual value of $150, provided that such property is within the county where the

vote is given. Yearly tenants of real estate, which is assessed at $150, are entitled to vote; and so are the sons of owners of real estate, where they are actually resident on the qualifying property.

**Property and income qualifications in Quebec**

With one exception — that of teachers in schools under the management of commissioners or trustees — the franchise in Quebec is based on property, or on income. It can be exercised by owners or occupiers of real estate valued in cities at $300, or in other municipalities at $250, or which yields a value of $20 a year. It can be exercised by tenants in cities who rent real estate of the value of $30 a year, and of $20 a year in other municipalities.

**Votes of members of teaching orders**

Teachers in schools under commissioners or trustees are also enfranchised — a provision in the law intended to meet educational conditions in the French province, where many of the schools and colleges are staffed by members of the teaching orders of the Roman Catholic church.

**Fishing-gear qualification for franchise**

Rentiers or retired farmers, with a rental of at least $100 a year, are enfranchised, and so are farmers' sons, working on their parents' farms, if divided equally between them as co-proprietors, and sons of owners of real property resident with their parents. As in Nova Scotia, fishermen who own boats or gear of an actual value of at least $150 are entitled to vote.

## VIII. *Landmarks in the Evolution of the Electoral System*

Old world election laws and usages in a new world country

Many of the old laws and usages of elections in England were adopted in the British North American provinces from Prince Edward Island to British Columbia, in the years from 1758 to 1867 — from the first establishment of representative government in Nova Scotia to the creation of the Dominion of Canada. The early election laws were patterned after the English election code; and English usages, as distinct from laws, were established in the British North American provinces because it was immigrants from England who were in charge of elections in the pioneer days of the provinces.

Forty-shilling freeholder and the plural voter

Among these importations were laws and usages which (1) established the forty-shilling freehold as a qualification for the vote in the counties — a qualification that in England dated back to 1430 and survived until the sweeping reform in the electoral system of the United Kingdom in 1918; (2) admitted of a man voting in as many electoral divisions as he held qualifying properties in; (3) excluded civil servants from the franchise; (4) made the possession of real or personal property a requisite for membership of a legislature; (5) established hustings at an election — the platform in the open air at which the sheriff and candidates and their supporters assembled on the day fixed by the sheriff for the nomination; (6)

established the English custom of chairing the successful candidate after the announcement by the sheriff of the result of the election; and (7) the much older English custom of girding a newly elected knight of the shire or representative of a county with a sword.

**The movement towards democracy**

As Canada in the first fifty years of Confederation progressed towards democracy, and as barriers against democracy imported from England [1] began to be regarded as out of date and out of harmony with Canadian political and social conditions, the old electoral laws were repealed, and the old world usages were discarded.

**Passing of old world laws and usages**

The forty-shilling-freehold qualification for the vote disappeared before Confederation. Only members of the senate at Ottawa are today required to own property as a requisite for nomination. The law requiring a property qualification for members of the house of commons was repealed by the Dominion parliament in 1872. The electoral franchise of civil servants at Dominion elections has been secured to them since 1885; and today there are no hustings, and few county towns in the Dominion at which has survived the old English custom of girding a knight of the shire with a sword.

The plural voter — the man who can exercise the franchise in several constituencies because he

[1] Edward Porritt, "Barriers against Democracy in the British Electoral System," *Political Science Quarterly*, Vol. XXVI, No. 1.

has property qualifications in these places — has survived longer than any of the other importations of the old electoral system of England. He still survives in Nova Scotia; and he was not dislodged from the electoral system in the province of Quebec until 1916. But in Quebec the plural voter was only a factor in one or two of the divisions of Montreal; and even in the days when there were two or three provinces in which he survived, his influence was greatly checked by the fact that since 1873 the polling at a general election has been all on the same day.

Where the plural voter survives

## IX. *Qualifications of Members of the House of Commons*

The qualifications of members of the house of commons at Ottawa, unlike those of a member of the senate, were not defined by the British North America act. It was left by parliament at Westminster in 1867 to the parliament of Canada to determine both the qualifications and disqualifications of members of the popularly elected house.

Parliament determines qualification of member of commons

"Any British subject," reads section 69 of the Dominion election code of 1898–1908, "may be a candidate in an election for a seat in the house of commons." "No qualification in real estate," reads the only other paragraph in the section, "shall be required of any candidate."

A Canadian, who has neither a home nor any

No residential qualification

material possessions in the United Kingdom, is eligible as a parliamentary candidate at any election in England, Scotland, or Ireland, as soon as he arrives in the country. In fact, he may be adopted as a candidate, and elected without his even leaving Canada; and the eligibility is reciprocal. An Englishman, Scotsman, or Irishman, or a British subject from any part of the Empire, no matter how short a time he may have been in Canada, is as eligible, under the law, for parliament as a native-born Canadian who has never been beyond the boundaries of his own province.

Open field for carpet-baggers

As in the United Kingdom, neither by law nor by usage is it necessary that a member of the house of commons at Ottawa reside in the constituency that he represents.

Proportion of non-resident members

Thirty members of the house of commons elected in 1911 were not residents of the constituencies from which they were returned. At other general elections after 1898 the proportion of non-resident members was about the same; and from the absence of law or usage requiring residence in a constituency Canada, like England, has derived obvious and permanent advantage.

Non-residency and careers in political life

These easy conditions, with the freedom they afford both to candidates and constituencies, make a parliamentary career possible for a man of ability who has an instinct for politics. A man so equipped can regard an election to the house of commons not merely as an episode in his life.

He can regard it as opening to him a career in Dominion politics — a career in the service of the state; for if he is defeated in one constituency at a general election, he can offer himself for another constituency at a special or by-election, or at the next general appeal to the electorate.

British and Canadian gains from abandonment of residential qualification

Under any other system than that in use at Westminster for three and a half centuries, and in Canada from the earliest days of representative institutions in the old British North American provinces, the British system of government through parliament and through a cabinet, all of whose members must be in parliament, would never have reached its present high state of development and efficiency.

Fifteenth-century enactments

The names of scores of men, who in the three centuries from the reign of James I to that of George V, rank high as reformers or parliamentarians or statesmen, would be missing from the pages of history had the laws of Henry V and Henry VI, that decreed that members of the house of commons, citizens and burgesses, as well as knights of the shire, must be "dwelling and resident" within their constituencies, not fallen into desuetude long before the end of the sixteenth century.

Lawyers earliest English carpet-baggers

It was the lawyers — the gentlemen of the long robe of the Inns of Court in London — who, by their pressure on electors in cities and boroughs, wore down the English election laws of 1429,

1432, and 1444–1445, requiring that members of the house of commons must live in the counties, cities, or boroughs they represented.

Empire's debt to carpet-baggers of Tudor era

The British Empire is thus indebted to the lawyers of the Tudor era, who, for their own advantage, thrust aside the old requirement that members of the house of commons must be resident in their constituencies. The innovation had advantages to recommend it. It was conceded to be of national service as early as 1620. In the eighteenth century, when the cabinet system was being slowly developed, the freedom of choice of the constituencies was especially valuable; and in 1774 all the laws requiring residence were repealed.[1]

English precedent followed in Canada

The English precedent was followed when representative systems were adopted in the British North American provinces, and again when the constitution of the Dominion was framed. There were no provisions that residence in a constituency should be required of a candidate for election.

Resulting gain

A result of this freedom — a result of by no means small importance — is the effect that the permanency of groups of well-known parliamentary leaders at Ottawa has on political education, and in stimulating political ambition. The names of Macdonald, Brown, Blake, Cartwright, and Tupper — to take instances only of Canadian statesmen who have passed away —

[1] Cf. Porritt, "Unreformed House of Commons," I, 122.

from 1867 to 1910 were as much household words in Canada as the names of Salisbury, Chamberlain, Bright, Disraeli, and Gladstone were in England from 1867 to 1906, when Chamberlain made his last speech in the house of commons at Westminster.

Leadership in parliament and national fame

These five Canadian statesmen were always sure of large audiences in any city from the Atlantic to the Pacific. The speeches they made in parliament or on the platform were widely read, — as are the speeches made today by Laurier, Foster, or Borden, — and in any democracy the utterances of the political leaders are the most effective means of popular political education.

## X. *Disqualifications of Parliamentary Candidates*

Ineligibles

First in the category of ineligibles are men who have been convicted of corrupt practices at elections. Next come government contractors. Members of provincial legislatures are also ineligible.

Dual membership

From 1867 to 1872 there were many members of parliament who were also members of the legislatures of Ontario and Quebec. The Liberals, session after session, opposed this dual membership; for it admittedly gave opportunities for log rolling by the Dominion and the provincial governments.

The case of the Conservative government against the abolition of dual representation was

Shortage of political ability in 1867

that there were not then sufficient men of political ability in Canada to fill all the seats in parliament and in the legislatures. It was contended, moreover, that to prohibit a man from being a member of parliament and at the same time a member of a provincial legislature was an undue interference with the freedom of choice of the electors.[1]

Members of legislatures ineligible

Public opinion, however, was strongly against dual representation. It condemned the suspicions and abuses to which it gave rise in the years when there were still many unsettled questions — financial and legal — outstanding between the Dominion and the provinces; and in 1872 an act was passed by parliament which made a member of a legislature ineligible as a candidate for the house of commons.[2]

Public officers and civil servants excluded

Following English precedent, sheriffs and registrars of deeds are on the ineligible list. Clerks of the peace and crown attorneys are also ineligible; and so is "every person accepting or holding any office, commission, or employment, permanent or temporary, in the service of the government of Canada at the nomination of the crown or at the nomination of any of the officers of the government of Canada, to which any salary, fee, wages, allowance, emolument, or profit of any kind is attached." Ministers, of whom in 1918 there were twenty-three, are exempt from the

[1] Cf. H. C. Debates, March 1, 1870.

[2] 35 Vict. c. xv.

section of the election law which excludes office holders — provincial as well as Dominion — from parliament.

## XI. *Duration of Parliaments*

Statutory term of parliament

General elections in Canada, unlike congressional elections in the United States, do not come at fixed and regular periods. The election of a new house of commons begins a new parliament. Under the British North America act the term of a parliament can run for five years. It is, however, possible for the governor-general to dissolve a parliament at any time, in one of two eventualities. He must grant a dissolution if his ministers — the cabinet — ask for it; and he can, exercising the prerogative of the crown, order a dissolution at a crisis which in his opinion renders it necessary that there should be a general appeal to the constituencies.

Parliaments that do not run full term

With two or three exceptions, parliaments since 1867 have run nearly their full course of five years. One of these exceptions was the parliament of 1872–1874, the duration of which was much shortened by the downfall of the Macdonald administration in November, 1873, due to the scandal in connection with the granting of the first charter for the Canadian Pacific Railway.

Alexander Mackenzie, leader of the Liberal opposition, was called upon by Dufferin, the governor-general, to form a new government.

Dissolutions due to political crises

The call to Mackenzie came after Macdonald, having been defeated in the house of commons, had, according to constitutional usage, tendered his resignation to the governor-general.

A group of Conservatives had voted with the Liberals for the motion censuring Macdonald and his government. But these Conservatives had not thrown in their lot with the Liberals on other questions than the Canadian Pacific scandal; and the Liberals in the session of 1873 were outnumbered by the Conservatives by six.

Dissolution of 1874

No contentious business could have been carried through the house under these adverse conditions. At the request of the new administration parliament was dissolved on January 2; and at the elections on January 22 the Mackenzie administration was returned with a majority of sixty in a house of 206 members.

Opposition forces dissolution in 1911

Another instance of a parliament that was dissolved some time before the end of its term was that of 1908–1911. Like the parliament of 1872–1874 its lifetime was shortened by a crisis — a crisis not due to a scandal, but to the persistent and successful obstruction, by the Conservative opposition, of the bill of the Laurier government for reëstablishing commercial reciprocity with the United States.

Crisis over reciprocity bill

The opposition was determined to force a dissolution. The obstructionists were so successful that the reciprocity bill, necessary to make effective the reciprocity act already passed by congress

at Washington, did not get beyond its preliminary stages in the house of commons. The opposition forced the Laurier administration into a place where it had either to withdraw the bill, or to ask the governor-general to grant a dissolution. The government preferred a dissolution; and after the general election in September, Laurier and his following of the Liberal party found themselves in a minority of thirty-seven in the new house of commons.[1]

As at Westminster, it is only under the most exceptional circumstances that a governor-general at Ottawa can dissolve parliament by the exercise of the prerogative, and not on the advice of his ministers.

## XII. *Dissolution of Parliament — General Elections*

The end of a parliament

The last session of a parliament before dissolution ends in exactly the same way as any other session. There is the usual speech from the throne in the chamber of the senate. Senators and members of the house of commons disperse to their homes; and at a later date, determined upon by the cabinet, there issues a royal proclamation dissolving parliament.

The proclamation discharges the existing parliament — the parliament that had been prorogued at the end of the session — from its duties of

[1] Conservatives, 133; Liberals, 86; Independents, 2.

Dissolution by royal proclamation

attendance; declares the desire of the crown, acting through the governor-general, to have the advice of its people, and the royal will and pleasure to call a new parliament. It is further announced in the proclamation that an order has been issued to the clerk of the crown in chancery — a state official at Ottawa — to issue the necessary writs for the new parliament.

King's writs

The writs go out in the name of the king. They go to the sheriffs or other returning officers — a separate writ for each electoral division. In the writ the sheriff is informed that "by the advice of our privy council for Canada, we have ordered a parliament to be holden at Ottawa," on a date that is named. The sheriff is commanded, notice of the time and place of the election having been duly given, to "cause election to be made, according to law, of a member to serve in the house of commons of Canada, for the electoral district" of Algoma, or whatever the district may be.

Command to sheriff

The sheriff is further commanded to "cause the nomination of candidates at such election" to be held on a day named in the writ. The election is held seven days after the nomination; and after the votes have been counted it is the duty of the sheriff — again quoting from the writ — to cause the name of the member elected, "whether he is present or absent, to be certified to our clerk of the crown in chancery, as by law directed."

Election procedure

The procedure is almost identical with that followed in the election of members to the house of commons at Westminster, procedure now almost six centuries old.

Extra-constitutional procedure

Before the writs are received by the returning officers much has happened in connection with the pending election which may be described as extra-constitutional, in that it is not governed by any section of the British North America act, nor by any enactment of the Dominion parliament.

Conventions and manifestoes

Party conventions have been held in each constituency at which candidates have been chosen. The premier of the government in existence at the dissolution of parliament has issued his manifesto to all the electors of the Dominion, and a similar manifesto has been issued by the leader of the party in opposition. Each candidate has also issued his address to the electors of the constituency from which he desires to be returned to parliament; and each candidate has made his campaign at mass meetings in the electoral division.

No constitutional recognition of political parties

The returning officer in his official capacity knows nothing of political parties. At his session, in the court house or the town hall, on nominating day, any twenty-five electors may nominate a candidate; and it does not come within the duties of a returning officer to make any inquiries as to the party affiliations of the electors who sign the nominating paper.

Returning officer and nominations

All that the returning officer is legally required to ascertain is (1) that the person named in each nominating paper has consented in writing to the nomination, except where such person is absent from the province, when such absence must be stated in the nominating paper; and (2) that accompanying each nominating paper there is a deposit of $200.

## XIII. *Candidates and the Official Expenses of Elections*

Canadian innovation on British code

Canada, in its election code, has departed in one important particular from the usage of elections and the laws applicable to members of the house of commons at Westminster.

British parliamentary candidates pay official expenses of elections

By usage for many generations before 1712, and by numerous enactments since 1712, candidates for the British house of commons have always been saddled with the official expenses of elections. They pay the fees of the returning officers, and the cost of constructing polling booths or of hiring rooms for polling booths. They pay the cost of printing the ballots, and of official advertising. They pay the fees of the poll clerks, and of the men who count the ballots; and they pay also all charges for the services of extra policemen who may be required to keep order on election day.

Before a nomination of a candidate is accepted by a returning officer in the United Kingdom,

the candidate must make a deposit large enough to cover his quota of the official expenses — expenses which, for each candidate, vary from £100 in a borough constituency to £1500 in a county division with a large electorate.

Deposit made by candidate

Official expenses at elections in Canada, except in one eventuality, are a charge on the Dominion treasury. Under the election code of the United Provinces, in the days of nomination at the hustings and open voting — proceedings which the law stipulated must be held in the open air — none of the official expenses were by law thrown on the candidates, and there was no change in this respect until the first election code of the Dominion was enacted by parliament in 1874.

Official expenses of elections in Canada a public charge

In this code it was provided that each candidate, before his nomination could be accepted, must make a payment of $50 towards the expenses of the returning officer. The code of 1874 was framed and carried through parliament by a Liberal government.

Charges on candidates from 1874 to 1882

At the redistribution of representation in 1882 — a redistribution notorious for the systematic gerrymandering of electoral divisions by the Conservative government, of which Macdonald was premier — an amendment was made to the electoral code of 1874. The section providing for the payment of $50 towards election expenses by candidates was repealed. In its place was inserted a remarkable section which still remains

Amendment of election code in 1882

in the electoral code. It is remarkable, because it was undemocratic in conception; and for thirty-five years it has been undemocratic in operation. It is, moreover, without a parallel in the election codes of English-speaking countries.

An undemocratic provision in law of 1882

Under this section of the electoral law each candidate, before his nomination is accepted by the returning officer, must deposit with that official a sum of $200. To a successful candidate the deposit is promptly returned. It is not returned to an unsuccessful candidate if he fails to obtain a number of votes at least equal to half the number polled by the candidate elected. In this event the deposit is forfeited to the king, for the public uses of Canada, and is applied by the returning officer toward the payment of election expenses.

## XIV. *A Statutory Penalty for an Unsuccessful Candidate*

Object of penalty

The object of thus penalizing an unsuccessful candidate is professedly to prevent irresponsible men from thrusting themselves into an election. It has the effect of checking contests against members of a preceding parliament who secured their seats by large majorities. It accounts for many uncontested elections — for what are described as walk-overs or elections by acclamation.

A candidate who has been returned by an overwhelming majority, to emphasize the measure

of success, frequently uses the phrase that his opponent "lost his deposit," a remark that indicates that he regards his seat in the house of commons as unassailable.

Candidate who loses deposit

The system of only two parties in politics — Conservative and Liberal — is much more firmly established in Canada than it was in England during the half century before the war. At Westminster, after the Irish Nationalist party was organized in the parliament of 1867–1874, the old system of two parties broke down; and from 1900 to 1914 there were five distinct organized parties in the house of commons.

Two-party system in Canadian politics

The two-party system in Canada is even more firmly established than it is in the United States. An agrarian party that developed some strength in Ontario — the Patrons of Industry — elected two or three members to Ottawa in 1896. But it was a short-lived movement; and at no time in Canada was there a movement, carried on independently of both Conservative and Liberal parties, that for success in securing representation in the federal legislature can be compared with the movement of the Progressive Republicans at the congressional elections of 1912 and 1914.[1]

An agrarian party that collapsed

Nearly 13,000 votes were polled for labor candidates in the Dominion general election of 1911. But in no house of commons from 1900 to 1916 was there a single independent labor member, despite the fact that there are a score of con-

No labor members at Ottawa

[1] Cf. Riddell, "Constitution of Canada," 105–106.

stituencies in which men employed in factories or in coal mines constitute the majority of the electorate.

**Labor opposition to election deposit**

For ten or twelve years before the war the Dominion Trades and Labor Congress — a permanent organization with headquarters in Toronto — on the eve of each new session of parliament petitioned both Liberal and Conservative governments to repeal the section of the electoral code which requires a deposit from a candidate for the house of commons. In 1914 the deputation from the congress — an organization which comprises in its membership most of the leaders of the labor party in provincial and municipal politics — coupled with the request for repeal a suggestion that a candidate might be required to obtain a much larger number of signatures to his nomination paper than the twenty-five demanded by the existing code.

**A gamble on an election**

The petition for this reform was presented to Doherty, minister of justice, in the Borden government. It evoked more sympathy from him than it had done from any minister, Liberal or Conservative, in any previous year. "Under the present law," he said, "a candidate is practically betting $200 that he will secure half as many votes as the candidate who is elected." "We say to a candidate," he added, lapsing into the colloquial, "go down in your clothes and get $200, or you can't have a run at this thing." [1]

[1] *Globe*, Toronto, March 14, 1914.

The penalizing section was aimed at the Liberals, who in 1882 were in opposition. In operation it has had a more far-reaching effect than the Conservative authors of the clause conceived. It has been of service to the Liberal party at Ottawa as well as to the Conservative party. It has been of even more service to the Liberals than the Conservatives; for the requirement of a deposit of $200 tends to prevent a general election from being used as an opportunity for unauthorized political propaganda; and usually, in any English-speaking country, it is the professedly liberal orthodox political party that sustains most loss of electoral strength from the propaganda of unorthodox political groups such as the Labor and Socialist parties.

**Long served both political parties**

The law of 1882 is, moreover, obviously an aid in maintaining discipline in the two existing parties in the house of commons. The undemocratic character of it, in a country where electors in seven provinces vote on manhood-suffrage franchises, has consequently been persistently ignored by Liberal as well as by Conservative politicians at Ottawa.

**An aid to party discipline**

## XV. *Simplicity of Election Procedure*

As contrasted with congressional elections in the United States, elections to the house of commons at Ottawa are exceedingly simple. There are three or four constituencies, as, for

**Only one ballot to be marked**

example, Ottawa and St. John, in which electors vote for two candidates. In the other 220-odd electoral divisions, when an elector goes to the polls all that he can do is to vote for one or other of two candidates.

**No party emblems on ballots**

At Dominion elections only members of the house of commons are chosen. Provincial or municipal elections are never held at the same time. There are no party emblems on the ballots, no word or mark to indicate with which political party the candidate is affiliated.

**No statutory recognition of political parties**

The term "Liberal" or "Conservative" has never been embodied in a Canadian act of parliament. These political parties exist, and have existed since 1792. But it is possible to go through all the constitutions framed for the old British North American provinces, for the Dominion of Canada, and for the three provinces created by the Dominion parliament since 1867, as well as through all the laws governing elections and concerning parliament, without finding a single acknowledgment of the existence of either Conservative or Liberal party. Political parties and their activities in and out of parliament are extra-constitutional; and in Canada, in accordance with British precedent, they are without statutory recognition.

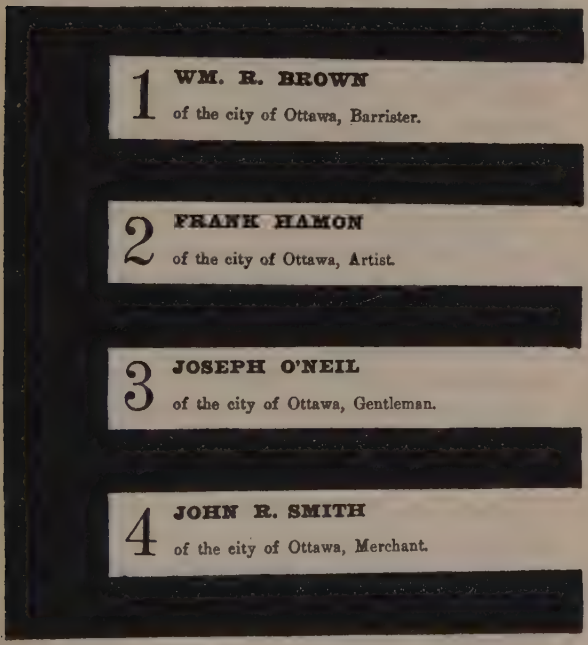
**Order of names on ballot**

The names of candidates are printed on the ballot papers in alphabetical order. The size, letterpress, and every detail of the ballot paper are determined by the electoral code of the

Dominion. To prevent the printing of fraudulent ballots, the paper used for the official ballots is issued by the king's printer at Ottawa.

Form of ballot

The ballot paper, in an electoral division which returns two members, is in this form:




Hours of polling

The hours of polling are from nine to five o'clock. Ballots are counted at the polling stations by the deputy returning officers, "in full view of the poll clerk, and the candidates or their agents," and before midnight on election day

the government in office has been unofficially informed of its fate. It learns from the newspaper bulletins whether it has been granted another lease of power by the electorate, or whether, in a few days, it must give place to an administration formed by the leader of the opposition in the late parliament.

**Return of writ**

Each writ is promptly returned to the clerk of the crown at Ottawa; and the final act of the returning officer is the publication of abstracts of the statements of expenses incurred by candidates at the election.

**Election agent**

Each candidate is by law required to appoint an election agent; and only through this agent can payments be made of expenses incurred by the candidate in connection with the election.

**Extra-official election expenses**

At elections in the United Kingdom the maximum sum that can be expended by a candidate is fixed by law. The sum is determined by the number of electors, and by the general character of the constituency — a larger amount being allowed for connty divisions than for divisions of cities or for boroughs. In Canada there is no such restriction on election expenses. Except for the deposit, election expenses are within the control of the candidates, and it costs much less to contest a constituency in Canada than in England or Scotland.

**Election petitions**

Petitions arising out of elections — petitions that have for their object the unseating of members for bribery or corruption, or other contra-

ventions of the electoral code — are tried before two judges of the superior court of the province in which the election in dispute was held. The Dominion parliament inherited from the legislature of the United Provinces the system of referring controverted election cases to select committees of the house of commons. This system was that in use at Westminster from 1770, when the Grenville act was passed, until 1868, when parliament transferred the adjudication of election cases from committees of the house to judges of the high court.

**Trial of election cases by judges**

Canada in 1873 followed the Westminster precedent of 1868; and since then all election cases have been heard by judges of the superior court of the provinces, with a right of appeal to the supreme court of the Dominion — a court which holds its sessions at Ottawa. The judges, after hearing an election case, report their decision to the speaker, who in turn reports it to the house of commons. In the event of the unseating of a member, a motion for a new writ is moved in the house.

**Resignation of members**

A member of the house of commons can resign at any time by a formal notification to the speaker of his intention to do so. In this particular the Dominion house of commons has made an innovation on the procedure of the house of commons at Westminster, where a member can free himself from service only by applying for, and being appointed to, the steward-

ship of the Chiltern Hundreds, or of a crown manor. These are technically offices of profit under the crown. Acceptance of one of these offices by a member vacates his seat.

Anti-quated English proce-dure retained

While the Dominion parliament has devised a more easy method by which a member can free himself of the tie to his constituency and to the house of commons, it still retains the old procedure of Westminster. Occasionally a member who desires to retire accepts an appointment to a country postmastership that happens to be vacant. He holds the office for a day or two, and then tenders his resignation to the postmaster-general.

# CHAPTER XIII

## THE CABINET: THE KING'S PRIVY COUNCIL FOR CANADA

Fate of administration determined at general election

AT a general election, if the result is the return to the house of commons of a majority pledged to the support of the administration in power, there is no change in the premiership, and usually only a few changes in the personnel of the cabinet.

On the other hand, if the opposition in the late parliament has secured a majority, the premier, with as little delay as possible, tenders his resignation to the governor-general.[1] By the resignation of the premier — as at his death — all the other members of the cabinet hand in their resignations.

Appointments to cabinet

Appointment to all cabinet offices is made by the governor-general only on the recommendation of the premier. It is the right and privilege of the premier to choose his colleagues, and to submit their names to the governor-general for appointment. Every member of a cabinet, so

[1] "The present practice is for the government to resign as soon as it is certain that it is defeated at an election; but it cannot yet be called unconstitutional for the defeated government to hold office until it is voted down in the house of commons." — Riddell, "Constitution of Canada," Note VII, 106.

chosen, knows that in the event of the death or resignation of the premier, he must, in accordance with the principle on which government by parliament and cabinet is based, at once resign his portfolio.

## I. *The Formation of a Cabinet*

Formation of cabinet

The governor-general, on the resignation of a premier whose party has sustained defeat at an election, sends for the leader of the opposition, who is charged by the governor-general with the formation of the new cabinet.

Number of ministerial office

In the first administration after Confederation — the Macdonald administration of 1867–1873 — there were fifteen ministers, one of whom was without portfolio. From 1867 to 1891 the presidency of the council was a separate office. From 1891 to 1917 the offices of first minister and president of the council were held by the same member of the cabinet; and from 1909 to 1917 the premier also held the office of secretary of state for external affairs — an office created by act of parliament in 1909 in consequence of the increased international relations of the Dominion.

With a view to more systematic and accelerated development of the public lands and of the resources of the Dominion after the war, there was created in 1917, the department of immigration and colonization. To this new department

were assigned powers, duties, and functions which, from Confederation to 1917, had been in the department of the interior. In 1917 also, at the organization on September 12, of the union government, with Borden as premier,[1] the office of president of the council again became a separate office. These changes in 1917 increased the number of ministerial offices to twenty-three.[2]

Increase in membership of cabinet due to the great war

1. First minister.
2. Secretary of state for external affairs.
3. President of the king's privy council for Canada.
4. Minister of finance.
5. Minister of trade and commerce.
6. Minister of public works.
7. Minister of railways and canals.

[1] At this reorganization, what, from 1911, had been a Conservative ministry became a coalition or union win-the-war administration. There were of the new administration fourteen Conservatives, eight Liberals, and one leader of the newly organized grain growers' party in the prairie provinces. Six of the members of the new cabinet were, in October, without seats in the house of commons or the senate. Parliament, however, was not in session in the autumn of 1917; and no attempt was made by the new members of the ministry to enter parliament until the general election on December 17, 1917, the election at which the union administration and its war policy was indorsed by the constituencies.

[2] In the administration organized in October, 1917, there was also a minister of overseas service — a war-time office that is not likely to survive the war and the restoration of the military forces of the Dominion to a peace basis.

8. Minister of marine and fisheries and of naval defense.
9. Minister of the interior.
10. Minister of immigration and colonization.
11. Minister of militia and defense.
12. Minister of agriculture.
13. Minister of customs.
14. Minister of inland revenues.
15. Minister of justice.
16. Postmaster-general.
17. Minister of labor.
18. Secretary of state.
19. Minister of mines.
20. Attorney-general.[1]
21. Solicitor-general.
22. Parliament secretary of the department of external affairs.
23. Parliamentary secretary of militia and defense.[2]

Salaries of ministers

The aggregate salaries of the first minister and secretary of state for external affairs, two offices usually held by the same man, are $12,000. With the exception of the two parliamentary secretaries, whose salaries are $5000, the other ministers receive $7000. These salaries, in each case, are in addition to the parliamentary indemnity of $2500.

[1] The office of attorney-general is usually held in conjunction with that of minister of justice.

[2] These parliamentary secretaries, like the solicitor-general, are of the ministry but not of the cabinet.

## II. *Conditions Determining the Distribution of Cabinet Offices*

**Restrictions on premier's choice of cabinet colleagues**

In framing a new cabinet, in making recommendations to the governor-general for appointments to these ministerial offices, the premier has (in normal times) much less freedom of choice than has the prime minister at Westminster.

At Westminster, a premier, after a general election which has newly returned to power the party of which he is the leader, must consider the claims to office of the men who are associated with him in the leadership of the party. Men who have established a claim upon him are of both the house of commons and the house of lords; and there must be a division — now always an unequal one — of cabinet and ministerial offices between the commons and the lords. At such times the house of commons is the predominant partner, and to its members go the larger number of ministerial appointments.

**Senate not a factor at organization of cabinet**

At Ottawa an incoming premier seldom need concern himself about the claims to cabinet office of members of the senate. All claims a politician may have established on his party are settled in full by his appointment to the senate. The senate, moreover, has never developed any leaders who for long made any place for themselves in political life.

Leaders of established position, who are grow-

ing old, occasionally get themselves transferred from the house to the senate; but it is seldom, indeed, that a senator of the rank and file has established any claim on his party that need be recognized when a new cabinet is formed. The upper house at Ottawa is thus not a factor in the formation of a cabinet to anything like the extent that the house of lords is, and always has been, when a cabinet is coming into being at Whitehall.

**Provincial statesmen with claims to cabinet office**

At Westminster a prime minister must weigh the claims of men only who are already in parliament. A prime minister at Ottawa must do more than this. He must consider the claims of men of his party in the house of commons, and also of men who are not in parliament, but whose claims rest on party service in office, or in opposition, in the provincial legislatures.

**Securing seats in parliament for provincial statesmen**

It is usual for the premier of the Dominion to summon to his cabinet men who are premiers of provincial governments or leaders of the opposition in provincial legislatures. Men so summoned to Ottawa are, of course, without seats in the house of commons. If they accept the premier's offer, as they almost invariably do, they must resign their seats in the provincial legislatures and any office they may hold in the provincial governments. Seats in the house of commons must be secured for them without delay, for only members of parliament can hold cabinet offices.

In a newly-elected house of commons there

Accommodating members of the commons

are always members who are willing to resign their seats on the promise of a nomination to the senate. These accommodating members accept a postmastership or some other minor office. Their seats thus become automatically vacant, and the vacancies are promptly filled by the election of the members of the new cabinet who were without seats in parliament.

Geographical, racial, and religious conditions affecting formation of cabinet

In considering the claims of the leaders of the political party at Ottawa and at the provincial capitals, the new premier must also regard (1) the claims of French-Canada; (2) the claims of the other eight provinces; (3) the claims of the English-speaking population of Quebec; and (4) the claims of the Roman Catholic population of the Dominion that is not French.

Three cabinet or ministerial offices are usually assigned to French-Canada.[1] The same number

[1] At the general election of 1911 the Nationalist party of Quebec threw in its lot with the Conservative party under the leadership of Borden. The platform of the Nationalists, adopted at Eustache, Quebec, in July, 1910, declared against any participation by the Dominion in imperial wars outside Canadian territory, and against any attempt at recruiting troops in Canada for Great Britain; and expressed opposition to the establishment in Canada of "a naval school with the help, and for the benefit, of imperial authorities." The Nationalists, in the election campaign, also opposed any additions to the British fleet at the expense of the Dominion. They carried eighteen or nineteen seats; and as a condition of support of the Borden government they demanded (1) that the portfolios of public works, inland revenue, and the post office be assigned respectively to Monk, Nantel, and

The claims of Quebec and Ontario

as a rule go to Ontario. At least one cabinet office must, by usage, be assigned to each of the provinces of Nova Scotia, New Brunswick, Manitoba, Saskatchewan, Alberta, and British Columbia; and since the appointment of Edward Kenny, of Nova Scotia, in 1869, as representative of the English-speaking Catholics [1] no cabinet has been long without a representative of the English-speaking Roman Catholic church.[2]

Cabinet offices earmarked for particular provinces

There is a custom, but not a custom invariably followed, to assign certain cabinet offices to particular provinces. The department of marine and fisheries is usually assigned to a member from one of the tidewater provinces. To a New Bruns-

Pelletier, all Nationalist leaders in Quebec; and (2) that no Protestant from Quebec hold a portfolio in the cabinet. Borden complied with these conditions. Cf. H. C. Debates, January 26, 1917; Canadian Parl. Guide, 1912, 25–26; and Ottawa dispatch to the *Gazette*, Montreal, dated November 28, 1917, summarizing J. S. Ewart's reasons for supporting Laurier at the general election of December 17, 1917.

[1] Cf. H. C. Debates, February 17, 1871.

[2] The claim of the English-speaking Roman Catholics was first recognized in the days of the United Provinces — in the days of what were described as "broad-bottomed administrations." (Cf. Buckingham and Ross, "Life of Alexander Mackenzie," 307.) Like the claim for recognition of English-speaking Roman Catholics in the senate, it has been recognized for fifty years by both Liberal and Conservative governments. A politician of Irish extraction — almost invariably a lawyer and generally a member of the house of commons from the province of Quebec — usually represents the English-speaking Roman Catholics in the cabinet.

wick member has several times been assigned the department of railways and canals. This office goes to a New Brunswick member because the headquarters of the Intercolonial Railway — the government railway — are at Moncton, New Brunswick; and, moreover, by far the larger part of the mileage of the Intercolonial is in the provinces of New Brunswick and Nova Scotia.

The west and the department of the interior

The department of the interior, previous to 1917, was usually assigned to a member from the prairie provinces. It went to a member from the grain-growing country because the government lands in the organized provinces, as distinct from those in the territories, are mostly in the provinces which lie between the Great Lakes and the Rocky Mountains; and, moreover, because the purpose of the immigration propaganda, under the supervision of the department of the interior from 1867 to 1917, was to attract immigration into these provinces.

Department of immigration and colonization

A department of immigration and colonization was created in 1917. Following precedents, dating back to the early years of Confederation in regard to the department at Ottawa having charge of immigration and colonization, the portfolio of the new department went to a member from the prairie provinces — Calder, of Saskatchewan.

All these conditions and factors confront the premier at Ottawa when he is forming his cabinet; and in recent years, certainly since 1896,

Governing class and the office of minister of finance

when Laurier formed his cabinet, the freedom of choice of a premier has been further restricted by the claims of the financial interests of Montreal and Toronto, and the tariff interests centering in these cities, that they have a voice in the selection of the minister of finance.

Laurier recognized this claim in 1896. It is a claim that was also fully conceded by Borden when he formed his first cabinet in 1911.

Innovations on usages of British cabinets

Distribution of cabinet offices based on geographical considerations, and on claims of race, religion, and special financial and material interests, is an innovation on the usages and traditions of cabinets at Westminster. The innovation has been developed by the differing conditions of Canada and the United Kingdom; by the operation of the federal principle; and by the need for conciliating assertive interests — racial and religious[1] — which is as old in Canadian politics as the ill-assorted legislative union of Upper and Lower Canada of 1841–1867.

[1] "Sir Wilfred Laurier is not the only sinner. Practically every party leader in Canada managed Quebec as Sir Wilfred has managed that province. A little more than an equal division of the spoils of office, concessions here and concessions there to race and creed, and there you have the statesmanship of Canadian premiers of both Conservative and Liberal stripe." — *Tribune*, Winnipeg, December 20, 1917.

## III. *Ministers without Portfolio*

Ministers without departments and without salaries

Another innovation is the presence in the cabinet at Ottawa of ministers without portfolios. At Westminster, from 1832 to 1914, there were only four cabinets in which there were members who held no office. In the first cabinet of the Dominion — 1867–1872 — there was a minister without portfolio. In every cabinet since there has been a minister to whom no office was assigned, and who consequently drew no salary. In some cabinets there were two, or even three, ministers without portfolios.[1]

House of commons and ministers without portfolios

These ministers are sworn of the king's privy council for Canada. They attend cabinet meetings and share in the collective responsibilty of the cabinet. But as they draw no salaries other than their parliamentary indemnities, it is difficult to criticize their actions in the house of commons if occasion for criticism should arise.

In the case of a cabinet minister, who is in receipt of a salary, it is possible to challenge any action of his by moving a reduction in the vote for the department of which he is the parliamentary head when it comes before the house of commons in committee of supply.

Additions to debating strength of cabinet

There have been instances where the inclusion in the cabinet of a minister without portfolio added considerably to the debating strength of

[1] Cf. Audet, "Canadian Historical Dates and Events," 113–114.

the cabinet in parliament. Notable instances of this were the inclusion in the Mackenzie cabinet of 1873–1878 of Edward Blake, who was leader of the Liberal opposition from 1878 to 1890; and the inclusion of Abbott, afterwards premier of the Dominion, in the Macdonald cabinet of 1878–1891.

**Reasons for minister without portfolios**

No similar instances of a cabinet recruiting its debating strength by the inclusion of a minister without portfolio occurred after Abbott's appointment in 1887. The appointments, in more recent times, were made (1) to secure for the cabinet the aid, counsel, and influence of strong men, who were not free to devote themselves entirely to politics; (2) to satisfy the claims of a province which otherwise might not be represented in the cabinet; and (3) to honor a man who had claims on the party in power, to give him a larger importance in the world of politics, and in the social life of Ottawa, than would attach to him if he were only of the rank and file of the government's supporters in the house of commons or the senate.

**A dignity with a life tenure**

The dignity, so bestowed, carries with it the right to the prefix "honorable" for life. It is not unlike the honor bestowed on men at Westminster who desire neither a baronetcy nor a peerage, but who prize a summons to the privy council, a summons that carries with it the rank, dignity, and title of "right honorable."

More than half of the members of the ministry

at Westminster — the men who hold subordinate offices in the government, and resign when the premier goes out of office — are not of the cabinet. At Ottawa since 1895, when the bureaus of customs and inland revenues were made departments of state, the solicitor-general and the parliamentary secretaries of state departments are the only ministers who are not in the cabinet.

Ministry and cabinet

## IV. *Honors for Canadian Premiers — Titles and Hereditary Honors*

Three of the premiers of the Dominion of Canada — Macdonald, Thompson, and Tupper — were knights before they attained to the premiership. Mackenzie, the Liberal premier of 1873–1878, was three times offered a knighthood, and on each occasion declined the honor.[1] Abbott, Bowell, Laurier, and Borden, whose names complete the list of premiers from Confederation to the great war, were all created knights of the Order of St. Michael and St. George, within a few months after they had assumed office; and for nearly half a century a knighthood was regarded at Ottawa and at Whitehall, as the due of any man who became premier of the Dominion.

Order of St. Michael and St. George

A still greater distinction is usually bestowed by the sovereign on premiers at Ottawa. Macdonald, Thompson, Laurier, and Borden were each sworn of the privy council at Whitehall, and thereby became "right honorable."

Membership of privy council at Whitehall

[1] Cf. Buckingham and Ross, 551.

A dignity empire-wide in its value

From 1872 to the war, from the time Macdonald became a privy councilor to 1915, a summons to the premier of Canada, or to the premier of any other of the five dominions, to the privy council was only a method of conferring a dignity empire-wide in its value. It gave a defined place in the order of precedence at ceremonies of state. But it involved no duties at Whitehall, because previous to the war only men who were of the cabinet in Downing Street were called upon to perform the routine duties of privy councilors. The privy council meets as a body only on the death of the sovereign.

Premiers of dominions and the British cabinet

During the war, Borden, the premier of Canada, and the premiers of the other four dominions, attended meetings of the cabinet in Downing Street. A premier of a dominion had never before attended a meeting of the British cabinet. Borden's participation in the cabinet meetings of July, 1915, revolutionized the "theory and practice of the system by which the British Empire had been governed for more than a century and a half." [1]

A war-forged link of empire

A new constitutional link of empire was thus forged — one of many new links, constitutional and extra-constitutional, forged by the war; and from July, 1915, a new significance attached to the fact that premiers of the dominions are of the privy council at Whitehall.

The premier at Ottawa, in the years from 1870

[1] *Daily Telegraph*, London, July 15, 1915.

to 1918, was not the only member of the cabinet distinguished by a knighthood. There were usually three or four knights in the cabinet; and knighthoods in Canada were in these thirty-eight years conferred on other men besides those in political life. There was a time when titles were conferred only at the instance of the colonial office in London. But as the powers of the Dominion cabinet, under the unwritten part of the constitution, were gradually extended, the colonial office lost the sole initiative in the bestowal of honors on men in the oversea dominions.

**Premier of Canada and bestowal of honors**

For at least thirty years before 1918 — a year in which the cabinet and the house of commons, following a popular lead from the constituencies, adopted a new and more democratic attitude towards titles — it had been possible for the premier at Ottawa to make a recommendation, through the governor-general, for the conferring, by the sovereign, of a knighthood on any of his colleagues in the cabinet or in parliament; on the premier of a province; on a judge of the superior courts; on a distinguished civil servant; or on any man in the political, scientific, industrial, commercial, or journalistic world of the Dominion, whom the premier and the cabinet deemed worthy of such distinction.

**Knighthoods for distinguished Canadians**

In more recent years baronetcies, and in at least two cases peerages, were bestowed on men

Baronetcies and peerages

domiciled in Canada, on the recommendation, or at least with the sanction or approval, of the premier.

To whom socially ambitious politicians had to look

In these years — 1885 to 1918 — men who were in politics, and who were ambitious for a title, expected recognition of their claims only from the premier of a government of which they were supporters in or out of parliament.

Politics and titles at Ottawa and Westminster

Conditions at Ottawa in this period in this respect were similar to long-existing conditions at Westminster, except that it was never even hinted at Ottawa, that titles were bartered for subscriptions to campaign funds of political parties; while at Westminster the squalid connection between some knighthoods, baronetcies, and peerages, and the election funds of political parties, was notorious for nearly a generation before the beginning of the war in 1914.

Political patronage

In Canada, in these years, the ability to recommend for titles had popularly come to be regarded as an addition to the patronage in the bestowal of the premier.

Popular attitude in Canada towards titles

Except among candidates for these honors, and among their womenfolk, titles were never in esteem in Canada. Knighthoods for men in the front rank in political life were tolerated as incidental to the connection with Great Britain; and they were regarded, moreover, as not disturbing to social order and social conditions in the Dominion. But there developed a widespread dislike of the bestowal of baronetcies and peer-

ages; for a baronetcy or a peerage descends from father to son. The title and the distinction, in the case of these dignities, do not end with the death of the man on whom they were conferred, as is the case with the lower rank of knighthood.

An uprising against them

There was a protest in the house of commons at Ottawa in the session of 1914 against conferring titles on Canadians; and in 1917, after a baronetcy had been conferred on a resident at Toronto, long prominent as a dealer in hog products on a vast scale, and a peerage had also been bestowed on the owner of a newspaper published in Montreal, the agitation against titles, begun in the house of commons in 1914, extended itself east and west from Ottawa.

An appeal to the union government

The question was agitated in provincial legislatures; and at conventions of church organizations, and of grain growers, farmers, and trade unionists, resolutions were adopted urging the then newly organized union government to refrain from recommending Canadians for titles of nobility.

Baronetcies and peerages assailed

Baronetcies and peerages, in particular, were condemned in these resolutions, or in the preambles to the resolutions, as manifestly out of harmony with political, economic, and social conditions in the Dominion.[1]

[1] Cf. *Gazette*, Montreal, September 10, 1917; *Grain Growers' Guide*, March 14, 1917; Joseph Martin, "The Menace of Canadian Titles," *Maclean's Magazine*, Toronto, August, 1917;

**Prompt response by the government**

Only once before in the history of the Dominion from 1867 to 1918 did a government at Ottawa react to a popular agitation in the constituencies as promptly as the union government did to the war-time agitation against titles. This was in 1906, when the Laurier government repealed an act passed by parliament in 1905 establishing a pension system for ex-members of Dominion cabinets.

**Government acts before commons again raise the question**

It was known at Ottawa as soon as the house of commons elected in December, 1917, assembled for its first session on March 18, 1918, that there would be a renewal in parliament of the agitation of 1914, and of the then more recent popular agitation of the question.

The union government did not wait for action by the house. It anticipated action in the commons by adopting a minute of council, dated March 25 — a minute which was subsequently transmitted to Whitehall — in which four recommendations in respect to the bestowal of titles on Canadians, domiciled in Canada, were submitted to the colonial office and the imperial government. The recommendations were:

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"The Badge of Autocracy," *Globe*, Toronto, August 22, 1917. "Even now," said the *Tribune*, Winnipeg, August 18, in commenting on Martin's protest in *Maclean's Magazine*, "these peerages should be plucked out of the life of Canada, and a declaration made by the parliament of our Dominion that the democracy of which we boast is real and should remain untainted."

1. No honour or titular distinction (saving those granted in recognition of military service during the present war or ordinarily bestowed by the sovereign *proprio motu*) shall be conferred upon a subject of his majesty ordinarily resident in Canada except with the approval or upon the advice of the prime minister of Canada.

**No more hereditary titles**

2. The government of the United Kingdom shall exercise the same authority as heretofore in determining the character and number of titles or honours to be allocated to Canada from time to time.

3. No hereditary title of honour shall hereafter be conferred upon a subject of his majesty ordinarily resident in Canada.

4. Appropriate action shall be taken, whether by legislation or otherwise, to provide that after a prescribed period no title of honour held by a subject of his majesty now or hereafter ordinarily resident in Canada shall be recognized as having hereditary effect.

**Responsibility of cabinet for honors conferred**

The bestowal of knighthoods was not ended by this action of the government. But with the far-reaching reform so brought about it became no longer constitutionally possible for the cabinet to ambush itself behind the prerogative of the crown, as had been possible under the old procedure at Ottawa, governing recommendations for honors made by the premier. A recommendation for a knighthood is now manifestly an act, in practice, by the cabinet — an act which can be discussed or challenged in parliament, like any other act for which the cabinet is responsible.[1]

[1] Cf. "Last Prerogative Goes," *Sun*, Toronto, April 11, 1918.

The last of three attempts to create an aristocracy

The reform of 1918 did end the bestowal of baronetcies and peerages on Canadians resident in the Dominion. It ended the third attempt since England first obtained a foothold on the northern half of the American continent to create a titled aristocracy in the new world. These attempts were: (1) that of James I in 1624 to establish the Order of the Baronets of Nova Scotia; (2) the attempt that Pitt made in the Quebec act of 1791; and (3) the much more recent creation of baronetcies and peerages for Canadians, against which the agitation of 1914–1918 was directed.[1]

## V. *Reëlection of Cabinet Ministers*

Appointment to cabinet office involves reëlection

Every member of the cabinet, who is of the house of commons, in accepting an office to which a salary is attached, must seek reëlection. The principle of the law which requires reëlection is that members of the house of commons, who accept offices which may be held while they are of the house, must accept office openly, and must give their constituents an opportunity of passing judgment on their acceptance of office.

Origin of law requiring reëlection

In England the law governing acceptance of office dates back to 1705. It is still in force; and

[1] Cf. Discussion of motion by Nickle, of Kingston, Ontario, for address to the king asking that hereditary titles be not conferred on Canadians. H. C. Debates, April 8, 1918.

a similar law has been in force in Canada since representative government was first established in Nova Scotia in 1758.

Few re-elections of cabinet ministers contested

Members who have accepted office at the formation of a new cabinet are seldom put to the trouble and expense of a contested election. They are often reëlected without returning to their constituencies. If a cabinet minister is compelled to enter upon a contest for reëlection, and if he is defeated, it does not follow that he disappears from the cabinet.

Opening a safe constituency

The cabinet, through the party machinery, can always "open" a safe constituency. It can always induce one of its supporters in the house of commons to relinquish a seat in the lower house in exchange for life membership of the senate; and the defeated cabinet minister is promptly reinstated in the house of commons.

The law making reëlection a condition of office is continuously in force. At any period in the lifetime of a cabinet, or in the term of a parliament, a member of the house of commons who accepts cabinet office knows that he must seek reëlection, and that he may have to face a contest in his constituency.

## VI. *Powers, Functions, and Responsibilities of the Cabinet*

Executive of Dominion

The formation of a cabinet is complete as soon as its members have taken the oath of office, and have been sworn of the king's privy council

for Canada.[1] It immediately assumes its executive duties, and begins its preparations for the assembling and work of the newly-elected parliament.

**Governor-general and cabinet**

The cabinet is the executive of the Dominion. It is the medium of all communications with the governor-general, who in his turn is the medium of all communications, outward and inward, with the secretary of state for the colonies at Whitehall.

**Minutes of council**

Communications from the cabinet are in the form of minutes of council. Appointments and contracts are also made by minutes of council. Orders-in-council, which have the force of law — orders which are made under many various statutes — issue from the privy council, in other words, from the cabinet.

**Cabinet and budget**

Responsibility for all bills for raising revenue, and for all the estimates that are submitted to parliament providing for the current expenses of the Dominion, lies with the cabinet.

The finance bill, colloquially known as the "budget," is prepared by the minister of finance.

[1] Every man who is sworn of the king's privy council for Canada is a privy councilor for life. The nine or ten members of the Borden cabinet of 1911–1917 who retired in October, 1917, to facilitate the formation of a union-win-the-war administration remained of the privy council after they had ceased to be members of the cabinet. But the privy council at Ottawa never meets as a body, not even on the death of the sovereign. In the working of the constitution all the duties of the privy council are delegated to the cabinet.

Framing of budget

Each minister prepares or supervises the preparation of the estimates of the department over which he presides. But before the bill of the minister of finance or the estimates for a department can be submitted to the house of commons, they must receive the approval of the cabinet; for the cabinet as a whole is responsible to parliament for the estimates and the budget.[1]

Government bills framed by cabinet

The same principle holds in respect to government bills concerning matters other than taxation and expenditure. It is open to a member of the cabinet, before a government bill is submitted to parliament, to take issue with his colleagues as to the policy embodied in the measure, or as to its principle, or as to details of the bill. If his colleagues refuse to accept his view, and he persists in his opposition, constitutional usage demands that he resign.

Privilege of minister who resigns on question of principle

It is the constitutional privilege of a minister who resigns from the cabinet — subject to the permission of the governor-general, which is never withheld — to make a statement from his seat in parliament of the reasons for his disagreement with his colleagues, and of the grounds on which he resigned. Permission from the governor-general is necessary, because without it proceedings in privy council cannot be divulged.

Only in parliament can an ex-cabinet minister make his first statement of the reasons for his resignation. The statement must be made in

[1] Cf. Riddell, "Constitution of Canada," 95–96.

parliament, in order that an answer may be forthcoming from the premier.[1]

Infrequency of resignation

Resignations from the cabinet on account of disagreements of ministers on questions of policy, or as to principles involved in government bills, are infrequent. There were only five such resignations in the twenty years preceding the war.

Instances of resignations on question of principle

Two members of the Bowell ministry of 1894–1896 resigned in 1895 owing to differences with their colleagues on the Manitoba school question. They were differences arising out of proposed remedial legislation under the contention-breeding clause 93 of the British North America act. These were resignations from a Conservative administration.

Section 93 again

There were two resignations from the Liberal government that was in power from 1896 to 1911. Blair, of New Brunswick, minister of railways and canals, resigned in 1904, because he was opposed to a bill for the construction of a second transcontinental railway. In 1905, Sifton, minister of the interior, resigned owing to differences with his colleagues over concessions to the separate school interests in the bills creating the provinces of Saskatchewan and Alberta. Three of the five resignations between 1894 and 1914 were thus due to issues originating in section 93 of the constitution of 1867.

Monk, of Quebec, resigned from the Borden cabinet in 1912, because he could not concur in

[1] Cf. H. C. Debates, March 1, 1905.

the decision of the cabinet to make an emergency contribution of $35,000,000 to the British navy, "with the sanction of parliament, but without giving the Canadian people an opportunity of expressing its approval of this important step." [1]

Navy issue of 1912

A minister who persists in his opposition to a bill at cabinet stage sometimes embarks on a course that may cost him more than his office and his seat in the council chamber. He may break with his party; find himself unwelcome at caucus; forfeit his position as almoner of patronage in his electoral division; and jeopardize his seat in the commons at the general election.

Risks attending resignation

It is recognized, however, at Ottawa, as at Westminster, that there is no place in the cabinet, as it has developed at Westminster since the revolution of 1688, and in all the dominions since 1841, for a member who cannot go all the way with his colleagues on any bill which the cabinet is about to submit to parliament. A cabinet minister who disagrees with his colleagues, and persists in disagreeing, has no alternative but resignation; for a bill submitted to parliament as a government measure may — often does — involve the fate of the government. Every member of the cabinet must, therefore, support it in parliament by voice and vote.

Member of cabinet must go all the way with his colleagues

There are frequently political questions under discussion, both in the constituencies and in parliament, concerning which the cabinet, as a

[1] "Canadian Annual Review," 1912, 181–182.

Open questions

whole, has come to no agreement. These are known as "open questions." The enfranchisement of women, as it was agitated in Canada from 1911 to 1916, is a typical example of an open question, and of the attitude of the cabinet in regard to such questions.

Enfranchisement of women open question in 1916

In a debate on this subject in the house of commons, in the session of 1916, one member of the cabinet — Rogers, of Manitoba, then minister of the interior — spoke in favor of the parliamentary enfranchisement of women; while Borden, the premier, would at that time give the movement no support; and a motion in favor of votes for women at Dominion elections was defeated.[1] The minister of the interior, by his speech, and by his difference on this question with the prime minister, infringed no rule or usage of the cabinet. The motion on which the speech was made did not originate with the cabinet; and woman suffrage was treated as an open question.

Private-member's motion in favor of enfranchisement

At this time — February, 1916 — women in Manitoba, Saskatchewan, and Alberta were in possession of the right to vote at all provincial and municipal elections. A bill to the same end had passed the British Columbia legislature, and was awaiting the decision of the electors. The motion that was before the house of commons was for an amendment of the Dominion election code by which the women enfranchised by the

[1] H. C. Debates, February 28, 1916.

provinces would have the right to vote at elections to the house of commons.

Circumstances under which open question loses that status

Had the premier intimated when the motion was proposed that the government would accept it, and introduce a bill to amend the election code, woman suffrage would no longer have remained in the category of open questions. The amending bill would have received the approval of the cabinet before it could have been introduced into the house of commons as a government measure; and in parliament, as in the cabinet, it must have had the approval and support of all the cabinet ministers.

Duties of cabinet minister

The duties of a cabinet minister are (1) to assist in council, and to share in the collective responsibility of the cabinet for the acts, measures, and policies of the government; (2) to frame the policies of his department, and with the aid of a deputy-minister, a permanent civil servant, to supervise the administrative work of his department; (3) to receive deputations on all matters connected with his department; (4) to pilot through the house of commons bills that originate in his department; (5) to carry the estimates of his department through committee of supply; (6) to answer all questions in the house of commons concerning the policies and activities of his department; and (7) to support and defend the policies and measures of the administration in parliament, and when need be on the platform in the constituencies.

# CHAPTER XIV

## PARLIAMENT AT WORK: THE HOUSE OF COMMONS

Assembling of parliament not determined by law

NEITHER by the constitution, nor by any law of the Dominion, is there a fixed time for the assembling of parliament, as there is for the assembling of congress at Washington. "There shall," reads the British North America act, "be a session of parliament once at least in every year; so that twelve months shall not intervene between the last sitting of the parliament in one session and its first sitting in the next session." The financial year of the Dominion ends on March 31, and this condition practically determines the time at which a new session of parliament begins.

Convened by proclamation

Parliament is convened by proclamation, issued by the governor-general. The date of its assembly is determined by the cabinet, on whose advice the governor-general issues the proclamation. The sessions in normal years extend from November until April or May.

Organizing the house

At the assembling of a new parliament the house of commons is without a speaker. The continuing officers of the house are the clerk, the assistant clerk, and the sergeant-at-arms. Much of the work preliminary to the organiza-

tion of the house is, by usage, delegated to the clerk. The newly-elected members take the oath[1] and sign the roll at the table in the chamber of the commons in the presence of the clerk; and until a speaker has been elected, the clerk is the presiding officer.

## I. *The Speaker and His Office*

**Duties of speaker**

The speaker is the chairman of the commons for the purpose of maintaining order and declaring or interpreting the rules of the house. He is also, unless the house otherwise directs, the spokesman and representative of the house in all communications made in its collective capacity to the crown.

**Speaker's relations with his political party**

At Ottawa the position of the speaker as regards political parties is midway between the position of the speaker at Washington and that of the speaker at Westminster. At Westminster the speaker, as soon as he has been elected to the chair, ceases to be a partisan. He never enters a political club. Unlike every other member of the house of commons he makes no political address when he seeks reëlection from his constituency at a general election. He never publicly discusses politics. He is outside the arena of political parties. He serves for two or three parliaments, or for as long as he can stand the

[1] "I do swear," reads the oath, "that I will be faithful and bear true allegiance to his majesty King George V."

strain and burden of an exceedingly arduous office.

**Speaker at Westminster**

It is a tradition at Westminster of now a hundred years' standing that a speaker must not continue of the house of commons after the end of his service in the chair. For a century it has been regarded as incompatible with the dignity of the chair that a speaker should fall back into the rank and file of the house; and since Addington vacated the speakership to become chancellor of the exchequer and premier of the administration of 1801–1804, no speaker at Westminster has ever resigned to accept office in the cabinet. A peerage and a pension have been the rewards of speakers at Westminster since the early years of the nineteenth century.

**Speaker at Washington**

At Washington the speakership goes to the leader of the party that is in a majority in the house of representatives, and after election to the chair he continues as leader of his party. Service in the chair at Washington, moreover, has frequently been a stepping stone to the position of candidate at national conventions for the presidency of the United States.

**Cabinet and choice of speaker at Ottawa**

The choice of speaker at Ottawa, as at Westminster, lies with the cabinet. An election to the chair is not made by the house acting quite apart from the government, although at Westminster the usage is that the nomination of speaker must not be moved in the house of commons by any member of the cabinet.

Premier and election of speaker

There is no such usage at Ottawa. The nomination is moved by the premier, who, almost invariably, is of the commons and is leader for the government in the house. It is sometimes seconded by another member of the cabinet, and usually supported by the leader of the opposition. At the time these speeches are made — always speeches emphasizing the importance and dignity of the office and the eligibility and fitness of the member nominated — the chair is without an occupant.

Function of clerk at election of speaker

The mace, the symbol of the office, is absent from the table in front of the chair. Members, accordingly, address their remarks by name to the clerk at the table; for the clerk must designate, by pointing to them as they rise in their seats, the members who have the floor to move, to second, and to support the nomination.[1]

Divisions on election of speaker

A division is seldom taken on the motion for the election of speaker. Rarely is a second candidate nominated; for the opposition is aware that a nomination to the chair, moved by the premier, will be supported by the full strength of the government in the house of commons.

Qualifications of speaker

The member elected as speaker at Ottawa is seldom of the leaders of his political party, although in addition to his obvious mastery of the rules and procedure of the house, and his ability to preside, he must have established some claims on his party.

[1] Cf. election of Edgar Rhodes as speaker, H. C. Debates, January 18, 1917.

Speaker does not attend caucus

In the chair he must be non-partisan in his rulings and in his recognition of members who desire to address the house. He must favor neither the government nor the opposition. He does not go into party caucus; and in no sense is he a leader of his party.

Speaker's association with his party

It is not, however, the usage at Ottawa, as it is at Westminster, that the speaker shall completely sever himself from his political party. Speakers make political addresses in their own constituencies and elsewhere. They distribute government patronage in their constituencies, like all other members elected to support the government; and there have been instances — one as recent as January, 1917 — in which a speaker has vacated the chair in order to accept office in the cabinet.

## II. *Speakers Alternately from English-Speaking and French-Speaking Canada*

One term only for speaker

One reason for the larger freedom at Ottawa is that speakers there, unlike speakers at Westminster, serve only during the lifetime of one parliament. Conditions at Ottawa, partly due to race and language, and partly to long-prevailing ideas as to the distribution of all government patronage, have militated against the Westminster precedent of continuing a member in the chair for two or three parliaments, regardless of the fortunes of political parties at general elections.

Division of offices between two races

There is a new speaker at Ottawa for each new house of commons; and it has long been a custom that when one political party continues in power for two or three parliaments, if the speaker in one parliament is of British extraction the next one shall be a French-Canadian.

Deputy-speaker

It is a rule also that the offices of speaker and of deputy-speaker can at no time be held by men of the same race. If the speaker is a French-Canadian, the deputy-speaker, who is also chairman of committees, must be an English-speaking Canadian; for the rule of the house is that "the member elected to serve as deputy-speaker shall be required to possess the full and practical knowledge of the language which is not that of the speaker for the time being." [1]

Clerks and sergeants-at-arms

The clerkship and the assistant clerkship of the house, and the offices of sergeant-at-arms and deputy-sergeant-at-arms — all appointive as distinct from elective offices — are, by usage, also similarly divided between the two races.

Minor offices

Nearly all the offices, important and unimportant, connected with parliament, with the senate as well as with the house, are distributed in accordance with these rules or usages. A roll call of the staffs of the two houses, including even the boys in knickerbockers who act as pages, would contain the names of almost as many French-Canadians as Canadians of British ancestry.

[1] Rules of the H. of C., 1909, 7; "Canadian Annual Review," 1911, 304.

Origin of division of offices

The rules and usages by virtue of which this distribution of offices is made are older than Confederation. They date back to the early years of the United Provinces, when Quebec and Ontario elected exactly the same number of members to the legislature, and when these were the only provinces in the union.

French Canada and equal division of offices

Quebec today elects only 65 of the 234 members of the house of commons. Its population is not one fourth of the population of the Dominion. Its contribution to Dominion revenues does not exceed one sixth. But an equal division of the offices of the house of commons is regarded by Quebec as necessary to the preservation of its rights and privileges; and so long as each political party, when it is in power, is dependent on support from French-Canada, it will be nearly as difficult to ignore the claim of Quebec to these parliamentary honors and offices as it would be to repeal the clause in the British North America act that safeguards the separate schools system.

### III. *The Crown and the Speaker — The Crown and the House*

Pledges made by speaker

As soon as the motion for the election of the speaker has been carried, the speaker, addressing the house, not from the chair, but from the steps to the chair, pledges himself to maintain the rights and privileges of the commons, and asks the aid of all his colleagues in so doing. He then takes the chair, and the sergeant-at-arms, who

is the custodian of the mace, lays the mace on the table.

Approval of speaker by crown

Even yet the house is not completely organized. Another step must be taken before all the constitutional usages have been observed. The crown must approve of the choice which the house has made of speaker.

State procession to senate

For this purpose the commons are summoned by black rod to the bar of the senate. They go in procession from their chamber to that of the senate. In this procession the sergeant-at-arms, bearing the mace, goes first, closely followed by the speaker, who is attended by a group of his fellow-members of the house of commons.

Speaker at bar of senate

At the bar of the senate the speaker announces his election to the governor-general, and submits himself, as is the custom at Westminster, "with all humility," for the approbation of the crown. Approval and confirmation are announced from the throne; and the speaker then demands "the ancient and undoubted rights and privileges of the commons." These are granted, and the speaker and his retinue return to the house of commons.

House asserts its independence of crown

At the opening session of a new parliament the house of commons has still one more duty to discharge before it is ready to consider the speech from the throne with which every new session is opened. Following a usage of the house of commons at Westminster, which can be traced at least as far back as 1558,[1] the house of commons

[1] Porritt, "Unreformed House of Commons," I, 543.

at Ottawa reads a bill in order to assert its right of deliberation without reference to the cause of summons as stated in the royal proclamation convening parliament, or to the business to which the attention of parliament has been directed in the speech from the throne.

Bill No. 1

A dummy bill, long known at Ottawa as "Bill No. 1," "respecting the administration of oaths of office," is handed by the clerk to a member on the treasury benches, — the benches on which sit the members of the cabinet, — who introduces it to the house, and moves that it be read a first time.[1]

Disappearance of Bill No. 1

No further progress is ever attempted with Bill No. 1. It disappears from the order paper of the house the day after it has been read a first time, and is not seen or heard of again until the opening of the next session of parliament, when it is once more brought out from cold storage to serve its purpose as an assertion on the part of the house of its independence of the crown.

## IV. *The Leader of the Opposition*

Leader of his majesty's opposition

Organization of the house is not complete until another and an extra-constitutional step has been taken. The leader of his majesty's opposition has yet to be elected. A salary of $7000 a session has, since 1905, been paid to the leader of the opposition, in addition to the allowance of $2500 that he receives as member of the house. Pay-

[1] Cf. H. C. Debates, January 19, 1917.

ment of a salary to the leader of the opposition is an innovation on the usage at Westminster. It is, so far as the British Empire is concerned, an innovation peculiar to the house of commons of Canada.[1]

Elected at caucus

The method by which the leader of the opposition is chosen is also an innovation on procedure at Westminster. He is elected at a caucus which is attended only by the members of the opposition in the house of commons. Senators who are of the opposition do not attend the caucus; and except very infrequently senators, whether supporters of the government or of the opposition, take no part in caucuses held in the commons wing of the parliament building.

Importation from Washington

The caucus is an extra-constitutional institution which has never been established at Westminster by either of the two historic parties in British politics. In Canada it is admittedly an importation from the United States.

It was well established in the era of the United Provinces at least as early as 1854;[2] and it was generally in use in the United Provinces, in the constituencies as well as at Ottawa, at Confederation.

[1] "This affords a not very remote analogy with the *advocatus diaboli* in courts which are to pass upon the proposed canonization of a saint — and to the employment and payment by the state of counsel for an accused upon his trial." — Riddell, "Constitution of Canada," 107.

[2] Cf. Buckingham and Ross, 121.

Cabinet and caucus

Both the party supporting the government and the party in opposition maintain the caucus system. Members of the cabinet, who are of the house of commons, discuss in the caucus of their party the policies, bills, plans, and sometimes the appointments of the government.

In the caucus of the opposition at the opening of the first session of a new parliament, the leader of the party in the house of commons is elected, and the attitude to be taken towards government measures and policies is determined.

Caucus held behind closed doors

The caucus at Ottawa, while admittedly patterned after the caucus at Washington, is at least one stage behind the caucus of the house of representatives in development. The constituents of a member of the house of commons have as good a constitutional right to be informed of what he says and how he votes in caucus, as of his speeches and votes in the house of commons.

No independent report of its proceedings

At Washington since 1913 this right of constituents has been recognized. Representatives of the press are admitted to caucus. At Ottawa the rights of constituents in this matter have been ignored for fifty years. A caucus is always held behind closed doors; and there is no full and independent public record of its proceedings, as there is of debates and votes in the house of commons.

The act of parliament of 1905 which authorizes the payment of a salary to the leader of the opposition, when it was before the house as a bill,

Salary of leader of opposition

was treated as an agreed or non-contentious measure. It was a bill for increasing the allowances of members and senators from $1500 to $2500; establishing pensions of $3500 a year for ex-members of the cabinet;[1] and providing a salary for the leader of the opposition.

A non-contentious bill

All the details of the bill had been agreed on at a caucus of the supporters of the government, and at a caucus of the members of the opposition; and as both political parties were satisfied with all its provisions, the measure fell into the category of non-contentious bills.

An era of good feeling

The circumstances under which the bill was submitted to the house by the government — the era of good feeling in which it was born — explain the brevity and looseness of the section by virtue of which the salary of the leader of the opposition is paid. It neither defines an opposition, nor indicates by whom and how the leader of the opposition shall be chosen.

A vague and loosely worded section

All that the section declares is that "to the member occupying the recognized position of leader of the opposition in the house of commons there shall be payable an additional sessional allowance of $7000."

Warrant for payment of salary

There is no provision in the law for a certificate of election, nor for a report to the house of commons of the result of the election. The member elected in caucus takes his seat on the bench on

[1] The pension section of the act of 1905 aroused widespread popular indignation, and was repealed in 1906.

the opposition side of the house, assigned by custom to the leader of the opposition, and his appearance there is the warrant for the payment of the salary.

## V. *The Seating of the House — Grouping of Parties*

Description of chamber

The chamber in which the commons hold their sittings is oblong.[1] It is divided by a spacious aisle extending from the main entrance — the entrance at which the bar is erected, and at which the sergeant-at-arms is stationed — to the clerk's table and the speaker's chair, which is on a dais nearly the height of the table.

Treasury bench

Members sit at desks in rows on each side of the aisle, rows which rise in tiers running back to the ends of the chamber. In the front row, to the speaker's right, sit the members of the cabinet. The most commanding place in the row is assigned to the premier, who is the leader of the house. By unwritten law the desks in this front row are always occupied by ministers, as active members of the privy council. In the rows rising behind sit members who were elected to support the government.

[1] The chamber of the commons, also that of the senate, as well as many offices in parliament house, were destroyed by fire on February 3, 1916. A new and enlarged parliament house, on the site of the old building, was being erected at the time this study of the evolution of the Dominion of Canada was in preparation.

Front opposition bench

The desks in the front row to the speaker's left are occupied by the leaders of the opposition. As members of a previous cabinet, they have a prescriptive right to these places, because they also are of the privy council for Canada, although on their ceasing to act as ministers they no longer attend at council.

Rank and file of the opposition

Cabinet ministers thus face the leaders of the opposition. They are almost near enough to them to carry on a conversation in a whisper across the aisle. The rank and file of the opposition occupy the rows of desks behind those assigned to their leaders.

Clerk and mace

At Westminster members of the government and the leaders of the opposition speak from the clerk's table that serves as a division between the treasury bench and the front opposition bench. No such use is made of the table at Ottawa. It is reserved for the clerk and the assistant clerk, and as the place of the mace while the house is in session and the speaker is in the chair.

Withdrawal of mace in committee

The mace is on the table only at such times. When the house is in committee, and the presiding officer is the chairman of committees and not the speaker, the mace is taken from the table.

The larger use of the table of the house of commons at Westminster — its centuries' long use as the place from which ministers and leaders of the opposition address the house — is due to the difference in seating of the two chambers.

Only benches are provided for members of the house of commons of the mother of parliaments.

Terminology of Westminster in use at Ottawa

At Ottawa every member is provided with a chair and a desk; and it is from their desks that members address the house. This difference in furnishing has not, however, prevented the adoption at Ottawa of terms descriptive of parts of the chamber in use at Westminster since government by party was established there more than two centuries ago. Despite the absence of benches, the row of desks at which members of the cabinet sit is described as the "treasury bench"; and the row to the left of the speaker as the "front opposition bench."

Privilege of floor

The privilege of the floor of the house of commons is much more restricted than that of the house of representatives at Washington. It is nearly as closely restricted as at Westminster, where a stranger is never permitted beyond the bar. At Ottawa the privilege is not granted to senators or to ex-members of the house, nor is it extended to visitors, however distinguished, except by motion adopted by the house. The floor is reserved for members, and for such of the house of commons staff whose duties make it necessary that they pass inside the bar.

Governor-general and the house

A gallery facing the speaker's chair is reserved for the family and entourage of the governor-general. It is part of the unwritten constitution of the United Kingdom that the King must not be present at a sitting of the house of commons.

The governor-general is the representative of the crown in Canada, and as such he must never be present in the house of commons at Ottawa.

## VI. *The House, the Public, and the Press*

**Public galleries**

There are galleries on all four sides of the chamber, all freely open to visitors. A motion can be made by a member at any time that the speaker order strangers to withdraw. Not more than two or three times in the first half-century of Confederation were strangers excluded from the galleries.

**Press gallery**

The press gallery is immediately above the speaker's chair. One custom of this gallery is peculiar to Ottawa among press galleries in parliaments of the English-speaking world. Reporters representing newspapers which support the government sit, like the government members, to the speaker's right. Reporters for opposition newspapers sit to the left of the chair.

**Political parties and the press**

After a general election which has involved a change of government, reporters, like members, change sides in the chamber. The custom in accordance with which this change of seats in the press gallery is made illustrates relations long existing between political parties and the press.

**Party organs**

Canada is a country of many newspaper organs and singularly few independent journals. There are not more than three or four politically independent daily newspapers in all the cities from

Halifax to Vancouver. Only in these few newspapers is there independent eulogy or criticism of the government or of the opposition. The other daily newspapers are organs, either of the party in office or of the party out of office.

**Government rewards for newspaper owners**

Conservative newspapers, during a tenure of power by the Conservative party, are rewarded by the bestowal of cabinet office or senatorships on the controlling owners; by knighthoods and other titular honors; by the distribution of government patronage to owners or editors; by orders for government printing; and by government advertising.

**Widely distributed largess**

At the end of the term of a Conservative government there is scarcely a Conservative daily newspaper organ whose owners and editors have not received some reward or largess from the government. With a change of government, favors to Conservative newspapers come to an abrupt end. It then becomes the turn of the Liberal newspaper organs to receive similar honors and rewards.

**Press and caucus**

Any policy or measure of the government, or any policy of the opposition, which secures the indorsement of the party caucus, is, as a result of these close and long-standing relations between political parties and the press, certain of the eulogy and support of the newspaper organs of the party.

For eighteen years the Liberal party continuously opposed the protectionist tariffs enacted

at the instance of the Conservative governments of 1878–1896, and also opposed a system of bounties for industries that had been established by the Conservatives. A Liberal government came into power in 1896; and in 1897, bills were framed by the cabinet continuing and extending the protectionist tariff, and also greatly extending the system of bounties for the iron and steel industry which the Conservative government had begun in 1883.

Organs take their cue from caucus

Both these bills — bills which completely reversed the fiscal policy of the Liberals during their eighteen years of opposition — were indorsed by a caucus of the Liberal members of the house of commons; and within a few days this complete, unexpected, and startling change of policy had received the indorsement and support of the Liberal organs in all the nine provinces.

A *volte face* by Liberal organs in 1897–1898

From Confederation to 1911 the Conservative party advocated reciprocity with the United States. In three of its tariff acts the Conservative government inserted sections which provided that as soon as Canadian farm, forest, and mineral products were admitted free of duty into the United States, similar products of the United States should be admitted duty free into Canada.

*Volte face* of Conservative organs in 1911

Three or four times in the years from 1867 to 1911 members of Conservative administrations journeyed from Ottawa to Washington to urge governments there to accept the long-standing

Conservative record on reciprocity

offers of reciprocity embodied in Canadian tariffs; and during these thirty-four years organs of the Conservative party never ceased to emphasize the importance of reciprocity to the farmers, lumbermen, miners, and fishermen of the Dominion.

**Reciprocity abandoned by Conservatives in 1911**

In the United States tariff act of 1910, the government at Washington proclaimed its willingness to establish reciprocity, not by treaty, as in 1854, but by concurrent legislation. The Liberal government of 1896–1911 promptly and cordially accepted the long-desired overtures from Washington. Resolutions preliminary to a bill to make effective the reciprocity agreement were introduced in the house of commons. The Conservatives went into caucus on the resolutions. There, at the instance of the protected manufacturers and the railway and transport companies, it was decided that the resolutions must be opposed; that the Liberal government must either withdraw them, or be compelled by obstruction in the house of commons to dissolve parliament.

**Conservative organs follow Ottawa lead**

Within a week after the caucus at Ottawa every Conservative newspaper organ in the Dominion was vehemently declaring that reciprocity with the United States would ruin the Dominion and endanger the connection of Canada with the British Empire.

These close and long-standing relations of political parties with the newspapers — relations as old as Confederation — explain the change

in the press gallery after a general election that has resulted in a change of government at Ottawa. The custom is based on the presumption that reporters of newspapers that are organs of the government will, as a matter of course, give most attention to the supporters of the government in the house of commons, and that reporters for organs of the opposition will give most attention to the speeches of the members who sit to the speaker's left.

Organs and reports of debates

Much more than at either Westminster or Washington, the press gallery at Ottawa is a stepping-stone to a career in Dominion politics or in the civil service. But a journalist whose seat in the press gallery is to the speaker's left expects nothing so long as the political party to which he is attached is in opposition.

Journalism as stepping-stone to political career

Parliamentary debates are not as fully reported in the newspapers as are debates at Westminster in the newspapers of the United Kingdom. For fifteen or sixteen years before the war they were not as fully reported as they were in the first thirty-five years of Confederation. As the Dominion developed, and the material prosperity of a part of its population greatly increased, new interests — industrial, financial, and social — pressed on the attention of the newspapers.

Newspaper reports of debates

Popular interest in the debates, and in the contention of political parties at Ottawa, moreover, obviously slackened after the only well-marked dividing line between Conservatives and

**Disappearance of old dividing line between political parties**

Liberals disappeared in 1897. This line was obliterated by a Liberal government. Protectionist tariffs — the Cayley and Galt tariffs of 1858 and 1859 — constituted a dividing line between Conservatives and Liberals in the era of the United Provinces. After Confederation protection was again a dividing line — the most obvious dividing line — from 1870 to 1897. The line disappeared completely after official Liberalism at Ottawa, as distinct from Liberalism in the constituencies, was suddenly converted to the Conservative policies of high tariffs and generous bounties to some Canadian industries.

**Absence of political issues**

No outstanding political principle thereafter divided Conservatives from Liberals. No new issues based on principles arose in Dominion politics until 1910, when there was some controversy over the form in which Canada should contribute to the strengthening of the British navy, and 1911, when the question of reciprocity with the United States was revived.

**Easing down of political propaganda**

A great slackening of political propaganda in the constituencies followed the *volte face* of the Liberals on protection in 1897; for there was no longer a question to be discussed which aroused popular interest all over the Dominion. With the slowing down of political activities there was a decline in popular interest in the debates in the house of commons, which soon manifested itself in a curtailment of the space appropriated in the newspapers to parliamentary reports.

Reports of debates

Even under these newer conditions — the wider range of public interests other than political demanding continuous attention from the newspapers, and the absence in the years from 1897 to 1914 of any well-marked and long-continuing dividing line between Conservatives and Liberals — debates in the house of commons are much more fully reported in Canadian newspapers than are debates in Congress in newspapers in the United States.

More discussion of politics in Canada than in United States

Proceedings in parliament are also accorded more continuous attention in the editorial columns of the Canadian newspapers than is given in American newspapers to proceedings in Congress. Dominion politics, moreover, are much more discussed in the home, on the street, in hotel corridors and clubs, and in the street cars and the railway trains, in Canada than federal politics are so discussed in the United States.

Kinship of political life in Canada to political life in England

In some aspects of industrial and social life — particularly of social life — Canadians are more akin to their American neighbors than to the people of England or Scotland. But Canadian political life in most of its aspects is much more akin to political life in England than to political life in the United States.

Especially is this true as regards popular interest in the proceedings of parliament. It is due partly to the love of Canadians for political affairs and political discussions; partly to the stimulus given to popular political education

Conditions that sustain interest in Dominion politics

and discussion by the fact that at Ottawa there are men whose names and figures are familiar all over the Dominion, confronting each other decade after decade in political rivalry; and partly to the fact that at Ottawa there is no fixed period for an administration, and that any day a political crisis may develop there that may involve the fate of a government and confront the Dominion with a general election.

## VII. *Procedure of the House — Debate on the Address to the Governor-General*

Law of parliament

Procedure of the house of commons is determined by rules which are continuing — rules which are not adopted by each new house in the first days of a new parliament, but which are part of what may be described as the law of parliament.

Rules of British parliament adopted at Confederation

The legislatures of the old British North American provinces east of the Great Lakes, when they were organized in the years between 1758 and 1792, each adopted, as far as was practicable amid their primitive surroundings, the rules of procedure of the parliament at Westminster. From 1841 to 1866 the legislature of the United Provinces was governed by the rules of the British parliament; and in the first session of the parliament of the Dominion the rules of the house of commons were closely modeled on the rules of the house of commons at Westminster.

Rule No. 1

A general rule — Rule No. 1 — was then adopted, a rule still in force at Ottawa, which declares that in all cases not provided for in the rules, "the rules, usages, and forms of proceedings of the house of commons of the United Kingdom of Great Britain and Ireland, in force on the first day of July, 1867, shall be followed." [1]

No chaplain at Ottawa

Not all the rules and usages of Westminster are practicable at Ottawa. At Westminster, because there is in England an established church, prayers in the house of commons are read by a chaplain, who is of the Church of England. In Canada there is no national church. There is no chaplain of the house of commons. Prayers are read by the speaker.

Quorum

At Westminster forty members of the house have, since 1640, constituted a quorum. At Ottawa, where the number of members is less than one third of those at Westminster, twenty members constitute a quorum.

No roll-call — duty of whips

Every member is bound to attend the house, unless leave of absence has been given. There is no call of the roll and no reading of the journals, as there is in the senate and house at Washington. Each political party has its whips — members of the party to whom is delegated the duty of keeping members in attendance. The organization and activities of the whips' offices are such that the whereabouts of every member of the house is known.

[1] Rules of H. C. of Canada, 1909, 1.

Keeping a house

Pairs for divisions are arranged by the whips; and on the government whips is thrown the responsibility of keeping a quorum, especially at those sittings at which government business is before the house.

Speech from the throne

Procedure in regard to the speech from the throne at the opening of a session at Ottawa is identical with that at Westminster. Even the form of the speech is the same. The opening paragraphs foreshadowing the legislation that is to be introduced during the session, and describing material conditions in the Dominion, are addressed to members of the senate and the house; while the paragraph intimating that the government will need votes of money is addressed to the house of commons alone.

The final paragraph commending the measures to be submitted to the attention of parliament, and invoking the blessing of the Almighty on the deliberations, is, like the opening paragraphs, addressed to "honorable gentlemen of the senate; gentlemen of the house of commons." [1]

Debate on address in reply to speech

The speech comes before the house of commons on a motion made from the government benches — a motion for which the government is responsible — that "an address be presented to his excellency, the governor-general, offering the thanks of this house to his excellency for the gracious speech which he has been pleased to make to both houses of parliament."

[1] Cf. H. C. Debates, January 19, 1917.

Motion for address

To two of the younger members, members who are recognized as men of promise, is assigned the duty of proposing and seconding the motion for the address of thanks. It is a much-prized distinction to be invited by the leader of the house to render this service. Only supporters of the government are asked to undertake it.

Dual language

In accordance with a usage which had its origin in the legislature of the United Provinces, the motion is proposed by an English-speaking member, and seconded by a member from Quebec, who addresses the house in French. Thus, at the beginning of a new session — usually at the second sitting — the house and the Dominion are formally reminded of the compact at Confederation that the two languages should be on an equality in parliament.

Precedence for debate on motion

Except for the introduction of bills, the debate on the address in reply to the speech from the throne takes precedence of all other business. Any question within the realm of Dominion politics, or of Empire politics, can be discussed when the address is before the house.

No time limit for speeches

There is no time limit for speeches. It was 1913 before the house had any rule under which a debate on any subject could be closured. So far in the history of the new rule it has never been applied in the debate on the address, and usually from eight to ten sittings are devoted to it.

The first member to address the house after

Leader of opposition and the address

the motion has been proposed and seconded is the leader of the opposition, who avails himself of this opportunity to make a general criticism of the policies of the government. The premier and leader of the house replies to the speech from the front opposition bench; and thereafter the debate on the address becomes general.

Criticism of government

All the leaders on the two front benches take part. It is a custom also that ex-ministers in opposition criticize the policies and measures of their successors in office. Thus, if the minister of finance in the late government is of the house, he directs his criticism to the policies that originate in the department of finance; and the minister of finance, when he intervenes in the debate, replies at length, and in detail, to the criticisms offered by his predecessor in office. In the same way it often happens that the minister of the interior replies to an ex-minister of the interior, and the postmaster-general to the member of the opposition who held this office in the preceding administration.

Expert criticism

The custom so described gives a zest and interest to the debate, an interest that extends far beyond the house and the galleries. It results in a discussion of the policies and administration of the principal departments of state by men who from their experience are regarded as experts.

Back-bench members on both sides of the house, in the debate on the address, have the best opportunity of the session of expressing

their opinions and convictions; and, through the official verbatim reports of the debates and the newspapers, of presenting their opinions and convictions to their constituents.

## VIII. *The Constitutional Value of the Debate on the Address*

**More than a ceremonial value**

The debate has much more than a formal or ceremonial value. It has a larger value than of affording ex-ministers an opportunity of criticizing their successors in office, and back-bench members of addressing their constituents from the floor of the house of commons.

**Discussion of state of Dominion**

It offers the house, and through the house, the Dominion, two opportunities that at times are of much constitutional value. It can be, and often has been, a debate on the state of the Dominion, an opportunity of calling the attention of government to unfavorable conditions in the body politic, for which it is urgent that some remedy shall be devised.

**Challenging policies of government**

It also affords an opportunity to the opposition of challenging the policy of the government, of testing, by a division, the feeling of the house, and of informing the constituencies of the grounds and expediency of the challenge.

**Amendments to motion**

If the opposition in caucus has decided on challenging any policy of the government — on a challenge that is to be pressed to a division — the mode of procedure is quite simple. No objection is raised by the opposition to the address

of thanks to the governor-general. To object to the motion would be discourteous, if not disloyal, despite the fact that the speech from the throne is framed by the cabinet. An amendment is offered of which the purpose is threefold. It expresses concurrence with the proposed address of thanks; condemns the policy which is assailed; and expresses regret that in the speech from the throne there is no announcement that the policy challenged is to be amended or abandoned.

**Motion of want of confidence in government**

An amendment framed on these lines is equivalent to a motion of want of confidence in the government. It is so regarded on both sides of the house; and for a division on such an amendment the government and opposition whips beat up all the strength that each party can command. No government that was defeated on an amendment to the address could hope to carry on through the session. The premier would have no alternative but to tender his resignation to the governor-general.

**Presentation of address to governor-general**

After the motion for the address of thanks has been adopted by the house, it is followed by another motion, proposed and seconded from the treasury bench, that "the said address be engrossed, and presented to his excellency the governor-general, by such members of this house as are of the honorable the privy council." [1] This is a formal motion on which there is no debate.

[1] Cf. H. C. Debates, January 30, 1917.

## IX. *The Select Standing Committees of the House*

Nominations of standing committees

While the house is occupied with the debate on the address, a special committee, on which are supporters of the government and members of the opposition, has prepared lists of members to compose the select standing committees of the house — committees which continue only during the session in which they are appointed.

There are eleven of these committees, in addition to a committee that has charge of the official reports of the debates, and a committee that, in association with a committee of the senate, has charge of the library of parliament.

Membership of committees

Supporters of the government are in a majority on each committee. Membership of the committees varies from 25 to 119. The importance of a committee, and the volume of work that is referred to it, are indicated by the number of its members.

Description of committees

The committees are:

| | Members |
|---|---|
| 1. Privileges and elections | 34 |
| 2. Railways, canals, and telegraph lines | 119 |
| 3. Miscellaneous private bills | 64 |
| 4. Standing orders | 31 |
| 5. Printing | 25 |
| 6. Public accounts | 63 |
| 7. Banking and commerce | 95 |
| 8. Agriculture and colonization | 94 |

9. Marine and fisheries..... 36
10. Mines and minerals..... 30
11. Forests, waterways, and water powers 31

**Election of committees**

The special committee which has prepared the lists of members to compose these committees makes its report as soon as the address to the governor-general has been adopted. The government, in practice, is responsible for the organization of the house for this committee work — work that is quite distinct from the work of committees of the whole house, such as the committee of ways and means and the committee of supply.

**Powers of committees**

The acceptance of the report of the special committee is moved by the leader of the house. By this motion, when agreed to, the committees are established and empowered to examine and inquire into all such matters and things as may be referred to them by the house; called upon to report from time to time their observations and opinions thereon; and empowered to send for persons, papers, and records.[1]

**Watchdog of the treasury**

From time to time the committees avail themselves of the power to send for persons, papers, and records. Most use of this power is made by the committee on public accounts. It investigates the expenditure of public money, and may be described as the parliamentary watchdog of the treasury.

[1] Cf. H. C. Debates, January 31, 1917.

## X. *Procedure on Bills*

Bills that must originate in house of commons

Procedure in the house of commons on bills is, in its main lines, almost identical with that in the senate. But there is a range of bills which cannot originate elsewhere than in the house of commons. In the senate there is neither committee of ways and means nor committee of supply; for bills imposing any charge on the people of the Dominion or making any grant for the services of the crown cannot originate in the upper house.

Aids and supplies

"All aids and supplies granted to his majesty by the parliament of Canada," reads house rule No. 78, "are the sole gift of the house of commons; and all bills for granting such aids and supplies ought to begin with the house, as it is the undoubted right of the house to direct, limit, and appoint in all such bills, the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which are not alterable by the senate."

Bills that cannot originate with private members

All money bills — all bills imposing a charge on the people of Canada — must be based on resolutions of the house of commons; and the usage is that private members — members not of the cabinet — cannot introduce bills of this description. The bills must originate with the government, and the house can act on them only with the leave of the crown.[1]

[1] "The provision which prevents the house passing any such bill unless it shall first have been recommended by message

Resolutions preliminary to bills

No bill, moreover, relating to trade, or the alteration of laws concerning trade, can be introduced until "the proposition shall have been first considered in a committee of the whole house, and agreed unto by the house." [1] This means that there must be resolutions preliminary to the bill, resolutions which add an additional stage to the stages of an ordinary bill.

Introduction of bills

Two days' notice must be given of a motion for leave to introduce a bill, resolution, or address for the appointment of any committee. On the day designated leave to introduce a bill is given, the bill is introduced, and it is read a first time. Except in the case of important bills, introduced by the government, there is seldom any debate at first reading. A brief explanation of the general aim or purpose of the bill is all that is offered by the member who introduces it.

Second reading

At second reading the case for the bill is fully presented. It is at second reading that the house decides for or against the principle of the bill. But if there is opposition, and it is desired that the house shall not commit itself on the principle, a second course is open.

"Six months' hoist"

It can be moved that the bill be given "six months' hoist." This motion is equivalent to the motion at Westminster that "the bill be

from the governor-general, emphasizes the responsibility of the ministry for the expenditure of every dollar of public money." — Riddell, "Constitution of Canada," 95–96.

[1] Rules of the House of Commons, 1909, Rule 48.

read a second time this day six months." If the motion is carried, it is as fatal for the bill as a direct rejection, for nothing more is heard during a session of a bill that has been given the six months' hoist.

**Standing committees and committee of the whole**

If the house accepts the principle of a bill at second reading, the bill goes either to one of the standing committees, or it is considered in committee of the whole house. If it goes to a standing committee, committee stage in the house is not omitted. The purpose of sending it to a standing committee is to perfect its details, and thereby lessen the work on the bill in committee of the whole house.

**Committee stage in the house**

At second-reading stage, and also at the third reading of a bill, a member can speak only once. In committee of the whole the bill is considered clause by clause. At this stage, unless the closure has been moved and a time limit fixed for committee stage, there is no restriction on the number of times a member can speak, or on the number of amendments he can offer, provided that the amendments are germane to the bill.

**Report stage**

From committee the bill is reported to the house. This is a distinct stage — a stage at which, when amendments have been made in committee, debate and amendments are in order. In the event of a bill being reported from committee without amendments, report stage is formal.

**Third reading**

Third reading is the last stage of a bill. It then goes to the senate. If the senate amends a

bill and the house disagrees, the question is settled by messages or by conference, usually by message.

**Royal assent**

The royal assent must be given before a bill becomes law. The British North America act provides that when a bill is presented to the governor-general for the king's assent, "he shall declare, according to his discretion, but subject to the provisions of this act, and to his majesty's instructions, either that he assents thereto in the king's name, or that he withholds the king's assent, or that he reserves the bill for the signification of the king's pleasure."

**Bills formerly reserved**

For a few years after Confederation certain bills, including all divorce bills, were reserved, and did not become law until the signification from the crown had been received at Ottawa from London, a fact which was announced by proclamation issued by the governor-general.

**Instructions to governor-general**

This procedure, a procedure established in connection with certain classes of bills in the days of the legislature of the United Provinces, was in accordance with the instructions received by the governor-general on his appointment. But in 1876, Blake, minister of justice in the Mackenzie cabinet of 1873–1878, for the government, objected to this and other provisions in the royal instructions to the governor-general.

**Revision of instructions in 1878**

Blake's case was that the instructions to which the Mackenzie government objected were inconsistent with the advanced stage of responsible government existing in the Dominion.

The case for larger powers

"Canada," the colonial office was reminded in this Blake memorandum of July, 1876, "is not merely a colony or a province; she is a dominion composed of an aggregate of seven large provinces federally united under an imperial charter, which expressly recites that her constitution is to be similar in principle to that of the United Kingdom. Nay, more, besides the powers with which she is invested over a large part of the affairs of the inhabitants of the several provinces, she enjoys absolute powers of legislation and administration over the people and territories of the northwest, out of which she has already created one province, and is empowered to create others, with representative institutions.

"These circumstances, together with the vastness of her area, the numbers of her free population, the character of the representative institutions and of the responsible government which as citizens of the various provinces and of Canada her people have so long enjoyed, all point to the propriety of dealing with the question in hand in a manner very different from that which might be fitly adopted with reference to a single and comparatively small and young colony.

Canada's claim for constitutional freedom

"Besides the general spread of the principles of constitutional freedom there has been, in reference to the colonies, a recognized difference between their circumstances resulting in the application to those in a less advanced condition of a lesser measure of self-government, while others are said to be invested with the fullest freedom of political government; and it may be fairly stated that there is no dependency of the British crown which is entitled to so full an application of the principles of constitutional freedom as the Dominion of Canada."

All claims conceded

The erection of another landmark in the constitutional development of Canada, in the progress of the Dominion to the status of a nation, resulted from the interchanges of 1876 between Ottawa and the colonial office. The commission

and instructions given to the governor-general of the Dominion were recast when Lorne succeeded Dufferin in 1878. The principles that Blake and the Mackenzie administration had insisted upon were conceded by the colonial office; "and since then there has been no dispute with reference to ministerial responsibility, either with regard to the assent to bills, the granting of pardons, or anything else." [1]

**Veto power dormant**

As a result of this revision in 1878, and of the greatly increased power which the government at Ottawa gradually drew to itself under the unwritten, as well as the written, constitution of the Dominion, the power to veto or reserve a bill is dormant. It has so long been out of use as to be almost forgotten in Canada; [2] and parliament at Ottawa passes bills with as little apprehension of a veto as parliament at Westminster, where the veto power of the crown, though the exercise of it was threatened by George III in 1774 and again by George IV in 1829,[3] has not been used since the reign of Queen Anne.

[1] Lash, "The Working of Federal Institutions in Canada," 83–85; Keith, "Responsible Government in the Dominions," 240.

[2] Cf. Riddell, "Constitution of Canada," 97, and Note XIX, 111.

[3] Cf. James Anson Farrer, "The Monarchy in Politics," 82, 128.

## XI. *Government Business: Private Members' Bills and Private Bill Legislation*

Three classes of bills

Bills introduced in the house of commons are of three classes: government bills, private members' bills, and private bill legislation.

Government bills

All bills for which the government is responsible are in the first of these classes. In normal times government business monopolizes two thirds of the time of the house. The two important government bills — bills which occupy much of the time of the house each session — are (1) the finance bill or the budget, and (2) the bill voting supplies for all the services of the Dominion.

Budget

The finance bill is framed by the minister of finance. Before it is introduced, any increases or decreases in taxation that are embodied in it have been discussed and approved by the cabinet. The minister of finance makes his budget statement on a motion that the house go into committee of ways and means; and it is on resolutions, considered in committee of ways and means, that the finance bill is founded.

Speech of minister of finance

The statement of the minister is long and detailed. Two, and sometimes three, hours are occupied in its submission to the house. It covers the receipts and expenditures of the government for the fiscal year, and includes a detailed statistical survey of the material progress of the Dominion. Finally, the changes in taxation are announced. Increases or decreases in customs or

inland revenue duties go into effect immediately on their announcement in the house of commons by the minister of finance.

**Indirect taxation**

People in Canada, in normal times, do not come face to face with the tax gatherers of the Dominion government. Except for stamps on tobacco, cigars, and patent medicines, they are never reminded, unless they are importers, that the government at Ottawa is exercising its powers of taxation.[1]

**Sources of revenue**

All the revenue is derived from three sources. By far the larger part of it comes from indirect taxation — from (1) customs duties on imports and (2) inland or internal revenue duties on wines, spirits, and beer, and on tobacco and patent medicines. The third source is mining royalties, payments for leases of lands and of water privileges, and for services rendered by the government as a carrier of mails, and also as the owner of railways, grain elevators, and coastwise steamship lines.

**Private members and amendments to finance bill**

After the resolutions have been adopted in committee and embodied in a bill, procedure on the bill is much the same as on a non-financial measure. But at no stage of the finance bill is it

[1] A tax on excess profits of manufacturing, transport, insurance, banking, and other business companies was imposed as a war-time finance measure in 1916. Except for this, and some other direct imposts of the war period, no direct taxation has ever been imposed by the Dominion parliament.

in order for a private member to move to increase any charge imposed by the bill. A motion to increase a tax can be made only from the treasury bench. A motion to decrease a tax, made by any member of the house of commons, is in order; and it is on such motions that discussions occur when the house is in committee on the schedules of a tariff bill.

Wide scope of discussion on budget

Debates on the budget extend over an even larger number of sittings than the debate on the address to the governor-general; for almost any aspect of Dominion politics can be discussed when the budget is before the house.

Budget debates of 1878-1896

In the period from 1878 to 1896, when the Liberal opposition was conducting in the constituencies, as well as in the house and the senate, a vigorous and continuous propaganda for a tariff for revenue only, debates on the finance bill ran on for weeks, and the people of the Dominion looked on with keen interest.

Less interesting after Liberals become protectionists

After the Liberals in 1897 became as protectionist as the Conservatives, and were responsible for the highest protective tariffs ever enacted at Ottawa from 1867 to the war, there was not a member left in the house of commons to advocate tariffs for revenue only, or even to oppose increases in the tariff made by the Liberal government. Debates on the finance bill were greatly curtailed, because as the Conservatives were all protectionists there was no longer any opposition in the house to a high protective tariff; and there

was a corresponding decline in popular interest in the budget debate.

**Finance bill in senate**

From the house the finance bill goes to the senate. There the stages of the bill are merely formal, and the debates of only academic interest. The senate can reject a finance bill, but only at the cost of bringing the various governmental services of the Dominion to a standstill. It is denied all power of amendment. In this respect the senate stands in the same subordinate position towards the house of commons that the house of lords has held since 1678 towards the house of commons at Westminster.

**Committee of supply**

In committee of supply the estimates are taken department by department. Each minister is in charge of the estimates for his department. It is his business, at this time, to answer criticisms, and to defend any items in the estimates that are challenged by the opposition.

**Estimates for state departments**

Carrying the estimates through committee is a long process. It involves much close work on the floor of the house for ministers, especially for ministers in charge of spending departments, such as the departments of public works, railways and canals, the interior, and marine and fisheries.

**Value of work in committee of supply**

A large part of the session is occupied with these votes of money. But some of the most effective work of the house is done at the numerous sittings in committee; for in committee of supply the house can exercise close supervision of the

expenditures, administration, and general policies of all the state departments.

Check on slipshod methods

No matter how large a majority a government may have, or how mechanically obedient its majority may be to the summons and instructions of the government whips, the fact that there will be detailed and searching discussion by the opposition of the estimates is, in itself, a check on slipshod methods, and on plans and policies that will not admit of full discussion in committee of supply.

Appropriation bill

The house is not continuously in committee of supply. The vote for one department is carried. Then some other business is taken up, and when this is finished the house again goes into committee. After all the votes have been passed, they are embodied in what is known as the "appropriation bill." The final stages of this bill are taken in the closing days of the session, in order to get the supplies of the whole year into one bill.

Appropriation bill at bar of senate

The appropriation bill, after it has been passed by the senate, is returned to the commons; and when the royal assent is about to be given to this and other bills, and the commons are summoned to the senate chamber for the purpose, the bill which grants money for the service of the crown is carried by the speaker to the bar of the senate, and handed by him to the clerk of the parliament to receive the royal assent.

The final stage of the appropriation bill is in

Final stage of appropriation bill

an ordinary session the only occasion on which the speaker is the representative of the house in communications with the governor-general; for it will be recalled that when the house has adopted an address of thanks to the governor-general for the speech from the throne, at the opening of the session, it delegates by resolution, to members of the privy council — to members of the cabinet — the duty of presenting the address to the governor-general.

Government bills other than financial

Government bills are those which come to the house from the cabinet. All these bills originate in one or other of the state departments; for every government bill alters or varies the functions and responsibilities, or throws new functions and responsibilities on some executive department.

A government bill intended to effect momentous or far-reaching changes, or embodying an important policy of the government, is sometimes introduced by the premier, who nowadays is always free of the responsibilities of a heavily burdened state department. Otherwise, it is the rule that a government bill is introduced by the minister who is at the head of the department in which the bill originated.

Caucus on government bills

Members on the government side of the house know beforehand the principles and main lines of a government bill. These they learn in caucus in the early days of the session; and in this way the caucus serves as a link between the government forces in the house and the cabinet.

In the case of a government bill of first-class importance, there is usually a caucus on the bill sometime between its introduction and second-reading stage; and from the rank and file on the government benches loyal support is expected.

Loss of prestige when a bill is abandoned

A government suffers a loss of prestige in parliament and in the constituencies if it is compelled by division within its ranks, or by the tactics of the opposition, to abandon a bill that has been announced in the speech from the throne at the opening of the session.

## XII. *The Closure*

Parliamentary program of government

A government must in each regular session carry through parliament the finance bill and the appropriation bill. Each session, also, there are two or three important bills, embodying its policies, that it is essential to its success as a government should be enacted.

Obstruction and filibustering

Despite these conditions it was 1913 before any government had, by the rules, sufficient command over the time of the house of commons to prevent its legislative plans from being thwarted by obstruction and filibustering by the opposition. The house of commons at Ottawa was late among legislative bodies in the English-speaking world in adopting a closure rule.

By filibustering the Conservative opposition in 1911 made it impossible for the Laurier government to carry a reciprocity bill through the house

of commons. Obstruction to the bill forced the Liberal government to advise the governor-general to dissolve a parliament which, in the normal course, had still nearly two and a half years to run.

**A filibuster that ended filibustering**

Two sessions later — in 1913 — the Liberals, then in opposition, attempted similar tactics on the bill of the Borden government for a grant of thirty-five million dollars to be expended in adding three battleships to the British navy.

**Closure rule of 1913**

Realizing after parliament had been in session for five months that no progress was being made, and that the opposition was intent on forcing the abandonment of the navy bill by obstruction, the Borden government proposed the adoption of a new rule. The rule, which is now in force, prohibits debate at certain technical stages of a bill preliminary to those that have been here described, and also empowers a member of the cabinet to move that there be a time limit to a debate, either in the house or in committee of the whole. With the closure rule thus brought into operation no speaker can hold the floor for longer than twenty minutes.

**Old rules that permitted minority to control**

In explaining the need and purpose of the new rule, Borden reminded the house that under the then existing rules there were nineteen stages, including committee, at which it was possible for members to discuss a measure. He stated also that it had been affirmed by some members of the house that it was absolutely impossible for the

majority to pass any measure without the consent of the minority.[1]

A liberty of speech that was long abused

Long before 1913 there had been a widespread conviction in the Dominion that an amendment of the rules of the house was necessary. "Liberty of speech in the commons," the *Globe*, of Toronto, a Liberal journal, had declared during the parliamentary crisis of 1911,[2] "has degenerated into license, and half a dozen inveterate talkers bore a weary house with talks that were old two thousand years ago, until the wonder is that enough members can be induced to remain in the chamber to make a quorum."

Liberals promise to end filibustering

Members of the Liberal administration in the general election of 1911 had also given pledges that if the Liberals were again returned to power the rules of the house should be promptly amended so as to make impossible filibustering like that which compelled the Laurier government to abandon the reciprocity bill.

They oppose the new rule

The new rule was, however, treated by the Liberal opposition as a party measure. There were nine days of debate on it, and the rule was carried only by a parliamentary manœuver by which the opposition was foiled in its intention of obstructing its adoption.[3]

"Americanizing Canadian parliament"

The objections made by the Liberals were that the new rule endangered freedom of speech; that it would tend to Americanize the Canadian

[1] Cf. H. C. Debates, April 9, 1913. [2] April 22, 1911.
[3] Cf. "Canadian Annual Review," 1913, 164–167.

parliament and establish the tyranny of the political boss.

**Opposition from French Canada**

From Quebec there was a specific and remarkable objection. "My province at the time of Confederation," said Lemieux, who had been postmaster-general in the Laurier administration, "accepted the compact of Cartier and Macdonald that the rules, usages, and customs of the British house of commons up to 1867 should be binding on the parliament of Canada in the future. Therefore, you have no right to impose on the minority in this house rules which have been created since 1867 — rules which tend to abridge the rights of the minority."

**French-Canadians fear a star chamber**

Lemieux was apprehensive that the new rule would jeopardize the rights of French-Canadians. "Has any one the right," he asked, "to alter a compact — to change the constitution; for the rules adopted in 1867 are embodied in that compact, in that constitution; and you cannot deface them. Canada, with such drastic rules, is no longer government by parliament but by the cabinet. It is a revival of the star chamber." [1]

**Less drastic than closure rules at Westminster and Washington**

The rules as they stood after the amendment of 1913 — an amendment adopted by a vote of 108 to 73 — as regards closure of debate and the shutting off of amendments in committee — are not nearly so comprehensive or so drastic as the closure rules at Westminster or at Washington. There is no debate under a five or a ten minute

[1] H. C. Debates, April 14–15, 1913.

rule, as there is in the house of representatives; and no closure by compartments, as there is in the British house of commons.

Bona-fide debate still safe-guarded

All substantial or obviously bona-fide motions which bring into question the propriety of passing any bill or vote are as debatable today as they were before 1913; and at least one day's notice must be given from the treasury bench of the intention of the government to move that a continued debate shall not be further adjourned.

Old rules relict of pro-vincial era of Canada

The rules as they stood before 1913 were adapted to conditions which ceased to exist at the turn of the twentieth century, when the great material expansion of Canada began and the Dominion took rank among nations.

## XIII. *Private Members' Bills and Private Bill Legislation*

Oppor-tunities of private members

A private or unofficial member of the house of commons has at least four opportunities of exercising his parliamentary abilities, and convincing his constituency that he can be of service at Ottawa. They are opportunities, moreover, that are distinct from the service he renders as a supporter of the government or a member of the opposition, or as a member of a standing committee; and distinct also from the local service which every member is expected to render to his constituency.

Under the rules it is possible for a private

Questions to ministers

member to address to ministers questions of which written notice has been given, and also questions of which written notice has not been given, which are addressed to ministers when the orders of the day are moved, or at the adjournment of the house.

Rules as to questions

Questions may be put to ministers relating to public affairs; and to other members relating to any bill, motion, or other public matter connected with the business of the house. In putting a question no argument or opinion can be offered; and a minister in replying to a question must not argue or put forward any opinion.

Oral and written answers

Answers to some questions are given orally. To others the answers are in writing. In either case the answers are embodied in the official report of the debate.

Value of questions

Much information of Dominion-wide value is thus at times elicited from ministers; and information of value to a province, or to particular interests in a province, is forthcoming at almost every sitting of the house through these formal and informal questions.

Attention directed to matters of urgent public importance

A member may at any sitting of the house initiate a discussion on a definite matter of urgent public importance, provided twenty members rise in their places to support his motion for leave to move the adjournment of the house.

The discussion takes place on the motion so made for adjournment. The rules carefully safeguard this valuable privilege. A motion to

discuss a matter of urgent public importance cannot be made to revive a discussion of a matter previously discussed in the same session of parliament. The motion must not anticipate a matter — bill, motion, or vote — which has been previously appointed for consideration by the house, and it must not raise a question of privilege.

Rules as to these motions for adjournment

In a country of immense area like Canada, and of varying climatic conditions, the privilege of every private member of thus calling the attention of the house and the government to a matter of urgent public importance is of peculiar value. Members avail themselves of it to call attention to an unexpected failure of a crop; to a disaster to a fishing fleet; or to a labor dispute of a far-reaching character. The privilege may also be exercised to call attention to international complications, such as may arise in connection with Asiatics on the Pacific Coast, or some incident on the American border line.

Peculiar value of these motions

A statement for the government follows a motion on an urgent matter of public importance; and in times of stress or crisis such statements have a quieting influence, particularly in cases of great disasters; for in such cases the debate on the motion elicits from the government a statement of the steps it is taking to afford relief.

Times of stress or crisis

A third opportunity afforded to private members is that of submitting motions to the house in favor of reforms or amendments of the law. The

Motions in favor of reforms

fourth is the opportunity open to members of submitting bills to the house.

**Private members' bills**

Private members' bills are distinguished from (1) bills originating with the government and (2) private-bill legislation — a description which comprises divorce bills and bills for the incorporation of transport, industrial, and financial undertakings and of ecclesiastical, educational, and philanthropic institutions.

**Private-bill legislation**

The stages of all bills coming within the term "private-bill legislation" are the same as those of bills which originate with the government, or with private members, with one important exception. The detailed examination and perfecting of bills incorporating undertakings or institutions, and the exercise of vigilance in safe-guarding the public interests, are largely the work of the standing committees, to which the bills are referred after they have been read a second time in the house.

**Propaganda for reform**

Much effective propaganda work for amendments or extensions of laws is accomplished by motions by private members and by private members' bills. The case for amendment or extension is impressed on the government; and by discussion of these motions or bills in the house, newspaper and other popular support is secured.

**Government acceptance of private members' bills**

It not infrequently happens that as an outcome of these discussions, and the sympathetic interest they arouse in the house of commons and in the constituencies, the government undertakes to introduce a bill for the reform suggested by the

private member or gives its support to the bill which the private member has introduced.

**Amendments effected by private members' bills**

Apart from the effect on the government of the discussion of private members' bills and motions, at each session of parliament quite a number of beneficent amendments to the law are made by private members' bills. There is no chance for a private member's bill if the government is hostile to it. In that event supporters of the government act on the instructions of the whip, and the bill fails of second reading.

**Privilege**

Questions of privilege cannot be raised as questions of urgent public importance. But they may be raised at any sitting at the time the orders of the day are moved. Scores of questions of privilege are raised at every session.

**Sensitiveness to newspaper criticism**

Occasionally they arise out of revelations in special committees or in investigations before royal commissions. Much more frequently privilege is invoked in order that members may correct inaccurate reports in the newspapers of their speeches in the house, or repudiate interpretations of their speeches which have been published on the editorial pages of the newspapers. Among members of legislative bodies in English-speaking countries, members of the house of commons of Canada are most sensitive to newspaper criticism.

# CHAPTER XV

## THE NATIONAL POLICY OF THE DOMINION

**Scope of National Policy**

IN the thirty-five years from 1879 to 1914, and in particular from 1879 to 1897, there was no phrase in political discussion in Canada in more frequent use than the one, "the National Policy of the Dominion." In the earlier part of the period the term was used to describe (1) the imposition of duties in the Dominion tariff to protect home industries against all outside competition; (2) the paying of bounties from the Dominion treasury to aid the upbuilding of industry; and (3) the attempt to secure reciprocity agreements with the United States and other non-British countries, with a view to extending the export trade of the Dominion.

**Extensions of its scope**

In the decade before the war the phrase had come to have a meaning much more comprehensive. It included, as of old, protectionist duties in the interest of Canadian industries. It included, until 1911, lavish bounties to iron and steel companies in Nova Scotia, Quebec, and Ontario. But it also included (1) the continuous and wide immigration propaganda for the peopling of the provinces west of the Great Lakes, and (2) the development of the national grain route, by rail,

lake, and canal, from all the grain-growing provinces to tidewater ports on the Atlantic.

## I. *The Development of the National Policy*

Origin of National Policy

There were protective tariffs in Canada twenty years before the phrase "National Policy" was brought into general use by the Macdonald government in 1879. The United Provinces of Upper and Lower Canada had been under a protectionist tariff for eight years before Confederation. In British Columbia a protective tariff was in operation from 1867 until the province came into Confederation in 1871.

Anticipations of National Policy by British Columbia

The Pacific Coast province, like the United Provinces and the Maritime Provinces, had also agitated for reciprocity with the United States; and while it was still an independent and isolated colony, British Columbia had offered bounties for the encouragement of the iron and woolen industries, thus anticipating a part of the National Policy that was not adopted by the Dominion government until 1883, when bounties to encourage the production of pig iron were first paid from the treasury at Ottawa.

First attempt to establish Dominion National Policy

The first attempt to establish a National Policy for the Dominion was made in 1870, by the Macdonald government of 1867–1871. As it was developed at that time the National Policy included protective duties on only some Canadian products; and an offer, embodied in the tariff,

of reciprocity with the United States. In this tariff of 1870 there were no increases in the duties on manufactured goods. These duties then stood at fifteen per cent, as imposed by the tariff of the United Provinces enacted in 1866.

**Low tariff at Confederation**

Confederation was in sight in 1866; and duties in the tariff enacted in that year were made less protective than in the tariffs of the United Provinces from 1858 to 1866, in order to ease the way into Confederation for Nova Scotia, New Brunswick, and Prince Edward Island, provinces in which there had never been any protective duties.

**Macdonald's theory of how reciprocity could be obtained**

The protective duties in the first National Policy tariff were on coal, salt, wheat, flour, and hops. In the tariff of 1866 all these articles were on the free list. They were made dutiable in the tariff of 1870 in accordance with a theory of Macdonald's that if Canada was ever to succeed in negotiating a second treaty of reciprocity — if it was ever to have another era of valuable trade relations with the United States, like that which was enjoyed under the Elgin-Marcy treaty of 1854–1866 — the government at Washington must be made to feel that it was in the power of the government at Ottawa to restrict trade of the United States with Canada.

**Washington ignores offer of 1870**

The tariff of 1870 produced no results at Washington. There were no overtures from the government of the United States for a renewal of the trade relations of 1854–1866. The duty of fifty cents a ton on anthracite and bituminous coal,

imposed in the interest of the bituminous coal mines of Nova Scotia, worked, moreover, great hardship on the people of Montreal and of the province of Ontario.

Aim of tariff of 1870

Ontario in 1870 was the only wheat-growing province, and the only province in which commercial milling was established. It had long been exporting wheat and flour to the United Kingdom, and also to Newfoundland. The new duties were intended to encourage grain growing and milling, by compelling the Maritime Provinces to draw their supplies from Ontario. Ontario was to be forced to use the coal of a province that was over a thousand miles from its western border; and in return for the favors to the coal owners at Sydney, Island of Cape Breton, the people of Nova Scotia and New Brunswick, were to be forced to buy their wheat and flour from Ontario.

Popular hostility to new tariff

Both in Ontario and in the Maritime Provinces the new duties provoked much popular dissatisfaction, especially in the Maritime Provinces, where a protectionist tariff was regarded as a breach of the compact at Confederation. At this time Ontario was the only province, east of the Rocky Mountains, in which the protectionist movement, begun in 1857–1858, had made any appreciable headway. Even in Ontario it was a movement that in 1870–1871 had secured support only in a few manufacturing centers.

There was so much agitation in Ontario against

**Abandonment of National Policy of 1870**

the coal duty, and so much agitation in Nova Scotia and New Brunswick against the duties on wheat and flour, that in 1871 Macdonald was forced to abandon the National Policy of 1870; and it was 1879 before the Dominion was committed to a high protectionist tariff; and 1883 before a bounty system for the encouragement of the iron and steel industry was adopted.

**Re-establishment of National Policy in 1879**

A Conservative government was responsible for the unsuccessful attempt of 1870–1871 to establish the National Policy. The Conservatives were also responsible for the system finally established in 1879. From 1878 to 1896 the Liberals were in opposition at Ottawa. During these eighteen years they continuously denounced the tariff policy of the Conservatives, and from 1883 to 1896 they were equally vigorous and persistent in their denunciation of the payment of bounties for the encouragement of the iron and steel industries.[1]

**Liberals accept National Policy and establish a British preferential tariff**

In 1897 the Liberals, who were in power at Ottawa from 1896 to 1911, adopted both the tariff and bounty policies of the Conservatives. They greatly extended the bounty system. They increased many of the protective duties; and in tariff policy they made one innovation of far-reaching political importance. They established a preferential tariff for imports from the United Kingdom; forged another link of empire;

[1] Cf. Edward Porritt, "Iron and Steel Bounties in Canada," *Political Science Quarterly*, Vol. xxii, No. 2 (1907), 194–195.

impelled Great Britain in 1897 to change a long-existing policy in regard to commercial treaties; and incidentally provoked a tariff war between the Dominion and the German Empire that lasted from 1903 to 1910.

## II. *The British Preferential Tariffs of 1897 and 1907*

**Reductions in duties on imports from United Kingdom**

The reductions in the tariff in favor of imports from the United Kingdom were made gradually in the three years from 1897 to 1900. The original plan was that from July, 1900, these imports should be chargeable only with two-thirds of the duties imposed on imports from the United States and other non-British countries.

**Hostility of Canadian manufacturers — preference curtailed**

From July, 1900, to June, 1904, all imports from the United Kingdom were admitted on these favorable terms. But Canadian manufacturers, through their national association, loudly protested against this new competition from British manufacturers; and in 1904 and 1907 — particularly in 1907, when there was a general revision of the tariff, and many increases in duties — the preference was curtailed, and the tariff made more protective against British imports.

**Tariff in three divisions**

At the revision in 1907 the principle of a uniform reduction of one third in favor of British imports was abandoned. The government then adopted the plan of a tariff in three divisions — a plan that will be easily understood from the accom-

## SCHEDULE A

| Tariff Items. | — | British Preferential Tariff. | Intermediate Tariff. | General Tariff. |
|---|---|---|---|---|
| 403 | Wire, crucible cast steel, valued at not less than six cents per pound..... | Free. | 5 p.c. | 5 p.c. |
| 403a | Steel wire valued at not less than two and three-quarter cents per pound when imported by manufacturers of rope for use exclusively in the manufacture of rope; and also wire rope for use exclusively for rigging of ships and vessels—under regulations by the Minister of Customs..... | Free. | Free. | Free. |
| 404 | See Tariff Amendment, June 12, 1914. | | | |
| 405 | Buckthorn strip fencing, woven wire fencing, and wire fencing of iron or steel, n.o.p., not to include woven wire or netting made from wire smaller than number fourteen gauge nor to include fencing of wire larger than number nine gauge..... | 10 p.c. | 12½ p.c. | 15 p.c. |
| 406 | Wire of all metals and kinds, n.o.p..... | 15 p.c. | 17½ p.c. | 20 p.c. |
| 407 | Wire, single or several, covered with cotton, linen, silk, rubber or other material, including cable so covered..... | 20 p.c. | 27½ p.c. | 30 p.c. |
| 408 | Wire rope, stranded or twisted wire, clothes lines, picture and other twisted wire and wire cable, n.o.p..... | 17½ p.c. | 22½ p.c | 25 p.c. |
| 409 | Wire cloth or woven wire, and wire netting, of iron or steel..... | 20 p.c. | 27½ p.c. | 30 p.c. |
| 410 | See Tariff Amendment, June 12, 1914. | | | |
| 411 | See Tariff Amendment, June 12, 1914. | | | |
| 412 | Iron or steel nuts, washers, rivets, and bolts, with or without threads; nut, bolt and hinge blanks; and T and strap hinges of all kinds, n.o.p.....per one hundred pounds and | 75 cents. 10 p.c. | 75 cents. 20 p.c. | 75 cents. 25 p.c. |
| 413 | Screws, commonly called "wood screws," of iron or steel, brass or other metal, including lag or coach screws, plated or not, and machine or other screws, n.o.p. | 22½ p.c. | 30 p.c. | 35 p.c. |
| 414 | Iron or steel cut nails and spikes (ordinary builders'); and railroad spikes.....per one hundred pounds. | 30 cents. | 45 cents. | 50 cents. |
| 415 | Composition nails and spikes and sheathing nails..... | 10 p.c. | 12½ p.c. | 15 p.c. |
| 416 | Wire nails of all kinds, n.o.p.....per one hundred pounds. | 40 cents. | 55 cents. | 60 cents. |
| 417 | Nails, brads, spikes and tacks of all kinds, n.o.p..... | 20 p.c. | 30 p.c. | 35 p.c. |
| 418 | Wire cloth, or woven wire of brass or copper..... | 17½ p.c. | 22½ p.c. | 25 p.c. |

panying facsimile of a page from the Dominion tariff as it stood before the war.[1]

Protection in all three tariffs for Canadian manufacturers

Under the tariff as enacted in 1907 there are (1) the British preferential tariff; (2) an intermediate tariff for countries that make concessions in their tariffs for imports from the Dominion; and (3) a general tariff, applicable to all countries that in their tariffs make no concessions to Canada.

No general principle was followed in 1907 in determining rates in the British preferential tariff. Consideration was given to the opposition of Canadian manufacturers of competing goods, who demanded adequate protection against all comers, British or non-British. While the tariff on British imports was usually fixed at rates below the rates in the intermediate tariff, much care was exercised to make it certain that in the British preferential tariff there should be adequate protection for all Canadian manufacturing interests — a procedure that necessitated many curtailments of the preference of 1897–1907.

Stimulation of British trade

From 1897 to 1907 the preferential tariff stimulated trade between the United Kingdom and Canada. Particularly was this the case as regards woolens and other textiles, some products

[1] The tariff act of 1915 added seven and a half per cent to the duties of the intermediate and general tariffs; five per cent to the duties of the preference division; and imposed a duty of seven and a half per cent on many imports, mostly raw materials or partly finished materials, that were formerly on the free list.

of the secondary stages of the iron and steel and metal industries, and glass, earthenware, and furniture.

Propaganda against concessions to British imports

It was this increase in trade between the United Kingdom and Canada, and the efforts of manufacturers in England and Scotland to avail themselves of the lower duties, that impelled Canadian manufacturers to protest. They waged a continuous propaganda against the British preference at the meetings of their association and in their newspaper organs. They protested to parliament in 1904 and 1905; and in the winter of 1905–1906 scores of individual manufacturers appeared before the tariff commission to demand more protection against competition from Great Britain than was afforded under the tariff of 1897.

Several of them characterized British competition as foreign competition, and they all declared that protection against British manufacturers was as essential to the success and prosperity of Canadian industries as protection against the manufacturers of the United States.

Curtails preferential tariff in operation

The effect of the revised and much curtailed preferential tariff in encouraging exports to Canada from the United Kingdom in the years from 1907 to 1914 was less obvious than the effect of the tariff of 1897. There was some increase in the seven years before the war. But it was an increase which, when measured in customs-house valuations, afforded little ground

for jubilation in manufacturing communities in the United Kingdom, especially in view of the widespread enthusiasm with which the original preferential tariff was received in Great Britain,[1] the enormous increase in emigration from Great Britain to Canada in the twelve years that preceded the war, the widespread prosperity in the Dominion from 1904 to 1912, and the great increase in the price of manufactured goods in the period from 1900 to 1914.

## III. *The Political Effect in Canada of the Preferential Tariff*

Attitude of Conservative party towards preference

In the seventeen years from 1897 to the beginning of the war, the political effect of the preferential tariff, as framed in 1897, and revised in 1907, was much more important than the economic effect. In Canada two political developments followed the enactment of the preference.

From 1897 to 1911 the preference was denounced by the Conservatives, who in these years were in opposition at Ottawa. The objections of the Conservatives were (1) that Canadian manufacturers must have protection against all comers; and (2) that Great Britain had given Canada no tariff concessions in return for the concessions in the Dominion tariff.

[1] Cf. Beckles Willson, "Life of Lord Strathcona and Mount Royal," II, 336.

**Demand for quid pro quo**

As the United Kingdom was on a free-trade basis from 1846 to the beginning of the war, it was not possible for any government at Whitehall to offer Canada an equivalent for the preference, without effecting a revolution in the British fiscal system. Many increases in the tariff were made at Ottawa after the Conservatives were returned to power at the general election in 1911. These increases, made in the years from 1912 to 1914, were intended to afford more protection to Canadian manufacturers, or to add to the protection of fruit growers in British Columbia, against competition from the United States.

**Conservative government accepts British preference**

As soon as the Conservatives were in office, however, they ceased to condemn the British preference; and from 1911 to the outbreak of the war they made no effort to secure from the government at Whitehall any quid pro quo for the lower duties first established for imports from the United Kingdom by the preferential tariff of 1897. They accepted the policy of the Liberals as regards the preference, just as the Liberals in 1897 had accepted the National Policy of the Conservatives of the preceding eight years.

**Attitude of agrarian interests towards preferential tariff**

Advocates of free trade in Canada welcomed the preferential tariff of 1897, and protested against the curtailments made in it in 1904 and 1907. The only consumers in Canada who are organized and articulate as such are the grain growers of Manitoba, Saskatchewan, and Alberta and the farmers of Ontario. From 1905 onwards

these organizations continuously agitated for lower duties in the British preferential tariff. As the leaders of both the Liberal and Conservative parties at Ottawa as continuously ignored the agitation, the grain growers and farmers in the winter of 1915–1916 launched an independent movement in Dominion politics.

**Grain growers organize independent movement in Dominion politics**

The purpose of the movement — the most considerable of all attempts in Canada from 1867 to 1918 to create a party independent of the Conservative and Liberal parties — was to secure direct representation of grain growers and farmers in the house of commons. In the national political platform adopted by the grain growers' associations, at their provincial conventions in the winter of 1916–1917, there was a demand for an extension of the British preference as a means of strengthening the bonds between Canada and Great Britain, and also of bringing about a reduction in the cost of living in Canada.[1]

**Division between agrarian and manufacturing interests**

The innovation in tariff legislation at Ottawa in 1897 — an innovation in which Canada once more led the oversea dominions — thus resulted in raising a new issue in Dominion politics; and the persistence with which the grain growers agitated for an extension of the preferential tariff widened the political gulf between the manufacturing interests of Ontario, Quebec, Nova Scotia, and New Brunswick, and the

[1] Cf. "A National Political Platform," *Grain Growers' Guide*, December 13, 1916.

agrarian interests of Ontario, and of the thousand-mile stretch of country that lies between the Lake of the Woods and the Rocky Mountains.

## IV. *The Tariff War of 1903–1910 with Germany*

**Germany's claim in 1897**

For the Empire at large the preferential tariff of 1897 had quite far-reaching consequences, some of which developed out of the aggressive attitude of Germany towards the new trade relations of Canada with Great Britain. Germany claimed that as an empire with a treaty of commerce with Great Britain, according it favored-nation treatment, it was entitled to send its exports to Canada on the same terms as were conceded under the preferential tariff to imports from Great Britain.

**Great Britain denounces commercial treaties**

In order to leave Canada, and other oversea possessions with responsible government, free to make their own commercial arrangements with one another, and with non-British countries, Great Britain in July, 1897, — only three months after the new tariff had been enacted at Ottawa — denounced her commercial treaties with Germany, Belgium, Italy, and nearly a dozen other powers in Europe, Asia, and South America.

**Rounding out commercial freedom of dominions**

The action of Great Britain in regard to these treaties, all of them, like that with Germany, of long standing, and of much value to manufacturers and exporters in the United Kingdom, completed the fiscal and commercial freedom of Canada.

It also completed the fiscal and commercial freedom of the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and the Dominion of Newfoundland; for heretofore, while these oversea dominions had no part in the negotiation of commercial treaties made by Great Britain, they had all, like Canada, been bound by British commercial treaties made before 1872. This was the year when Great Britain conceded to the colonies with responsible government the option of inclusion in new treaties.

**Imports from Germany pay duties of general tariff**

Until July, 1898, imports from Germany into Canada were admitted under the preferential tariff. Thereafter imports from Germany paid the duties imposed by the general tariff of 1897 — the same duties as were paid on imports from the United States. Germany resented this treatment.

**Germany attempts to domineer**

Belgium agreed to a new treaty which left Canada and the other dominions freedom of action. Germany flatly refused a new treaty with Great Britain to replace the treaty of 1865–1898. Her position was that what the oversea dominions conceded to Great Britain must also be conceded to the German Empire.

**Reprisals threatened by Germany**

What Lansdowne, who was secretary for foreign affairs in the Salisbury and Balfour governments of 1895–1906, described as a serious position, developed out of Germany's opposition to the new commercial relations between Great Britain and the dominions.

Lansdowne's statement in the house of lords

"It is not merely that we find Canada liable to be made to suffer in consequence of the differential treatment which the Canadian government had afforded to us," Lansdowne told the house of lords, on June 29, 1903, "but it was actually adumbrated in an official document, that, if other colonies acted in the same manner as Canada, the result might be that we, the mother country, would find ourselves deprived of most-favored-nation treatment."

Germany and Great Britain's "naughty little colonies"

"Thus," wrote English commentators on the action of Germany, after the government at Whitehall, at the instance of Canada, had ended the British-German treaty of commerce of 1865, "Germany first demanded to share in the Canadian preference. And when that attempted intrusion into the domestic life of the British Empire was forbidden, we had the threat that England would be punished in her trade with Germany, if she did not put these naughty little colonies in their place." [1]

Tariff war of 1903–1910

The upshot of Germany's procedure was that for the first time since Great Britain had adopted free trade in 1846, one dominion of the British Empire was engaged from 1903 to 1910 in a tariff war. Germany was the aggressor. Until July, 1898, Canadian exports to Germany were admitted under the German minimum tariff. As soon as the treaty of 1865 had expired, and exports from Germany to Canada were consequently

[1] P. and A. Hurd, "The New Empire Partnership," 228.

no longer admitted on the same favorable terms as exports from the United Kingdom, Germany put her maximum tariff into force against Canada.

Canada's offer to Germany

"We did not," said Fielding, minister of finance at Ottawa, "deny to Germany favored-nation treatment. We were willing to give her every consideration that we gave to any foreign government. But she took offense because we would not treat her as we did the United Kingdom." [1]

Efforts at Ottawa to avoid tariff war

The Dominion was slow to retaliate. The government at Ottawa conceived that there was some misunderstanding on the part of Germany. By diplomatic correspondence, and also through the German consulate at Montreal, efforts were made to assure Berlin that Canada was giving to Germany everything that it gave to any foreign country; that it was conceding to Germany what it conceded to France, although France, with which Canada had a treaty of commerce since 1893, gave valuable concessions in return, and Germany conceded nothing.

Surtax on German imports

All that Canada asked was that her exports to Germany should again come under the minimum tariff. This Germany refused. Her maximum tariff was put into force against Canada in the autumn of 1898; but it was October, 1903, before Canada retaliated. Then, by act of parliament, a surtax of one third of the duties of the general tariff was imposed on imports from Germany.

[1] H. C. Debates, December 14, 1907.

The result of the surtax was that on many of the imports from Germany duties in the years from 1903 to 1910 ranged as high as forty per cent, the highest tariff duties ever in force in Canada, until the war tariff of 1915 was enacted. There was at once a great reduction in Germany's export trade to Canada.

**Peace without victory — for Germany**

Germany slowly realized that only loss of trade was resulting from persistence in the tariff war; and in February, 1910, on overtures from Berlin, the tariff war was ended in a peace without victory for Germany.[1]

## V. *The United States and the British Preferential Tariffs*

**Germany no tariff advantages over United States**

Notwithstanding the treaty of commerce between Great Britain and Germany of 1865–1898 — a treaty in which there was a clause [2] which provided that goods exported from Germany to Canada should not be chargeable with higher duties than were imposed on goods exported from the United Kingdom to Canada — only from April, 1897, to July, 1898, in the thirty-three years from 1865 to 1897 had Germany any advantage over the United States in the export trade to Canada.

[1] Cf. Fielding's Speech, "House of Commons Debates," February 16, 1910.

[2] "A clause very obnoxious to the people, not only of Canada, but of the colonies generally." — Fielding, H. C. Debates, April 16, 1903.

Countries that had advantages

The United States enjoyed special advantages from 1854 to 1866, the years of the Elgin-Marcy treaty; and since 1883 France has continuously enjoyed a measure of special treatment in Canadian tariffs, owing to the existence of commercial treaties between the Dominion and the French Republic.

Otherwise all countries on same footing

With these exceptions, until 1897 all countries, British and non-British, exported goods to Canada on the same terms. There were no tariff concessions in Canada to countries with favored-nation treaties with Great Britain, because it was not until tariffs for the protection of Canadian industries had been in operation in the United Provinces from 1858 to 1867, and in the Dominion from 1867 to 1897, that any concession was made in Canadian tariffs to imports from the United Kingdom.[1]

No concession in return for British preference

No concession was asked by Canada from the United Kingdom when the original preferential tariff was framed. "England," said Fielding, when he announced the innovation of 1897 to the house of commons, "has dealt generously with us in the past. She has given us liberty to tax her wares, even when she admits ours free; and we have taxed them to an enormous degree." [2]

Canada and crown colonies

Canada also asked nothing in return for the preference for British crown colonies in which there were tariffs for revenue only; and by 1913

[1] Salt imported from the United Kingdom for the sea fisheries of Canada has always been on the free list.

[2] H. C. Debates, April 22, 1897.

twenty-five crown colonies were participating in the concessions of the British preference of 1907.[1] The dominions with protective tariffs had to make reciprocal concessions before they could share in the preferential rates conceded to the United Kingdom. New Zealand, Australia, and the Union of South Africa, all made terms with Canada.

**Reciprocal trade with West Indies**

With the nine West Indian colonies[2] Canada, in 1913, entered into an elaborate and liberal agreement for reciprocal trade. The result of all these various arrangements was that in the year preceding the war, the United Kingdom, four dominions, and thirty-four crown colonies were all linked together by the far-reaching innovation in tariff making at Ottawa in 1897, which originated with the Liberal government of 1896–1911.

**Canada as an advertiser**

There is no country in the world that advertises more systematically or on a more lavish scale than Canada. It expended nearly fifteen million dollars in the years from 1897 to 1914, in advertising itself in the United Kingdom, the United States, and the countries of continental Europe — in making known the opportunities that were awaiting immigrants into the Dominion.

The preferential tariff of 1897 advertised

[1] Cf. Customs Tariff, 1907, Ottawa, 1914, Appendix 18, 212.

[2] Trinidad, British Guiana, Barbados, St. Lucia, St. Vincent, Antigua, St. Kitts, Dominica, and Montserrat.

Its greatest advertisement up to the war

Canada all over the English-speaking world better than all its immigration propaganda. It enormously supplemented the lavish outlay on printer's ink of the Dominion government. Magna Charta, for seven centuries England's great standing advertisement, was not promulgated in an act of parliament. With Magna Charta outside of the category of acts of parliament, it can be said of the preferential tariff act of 1897 that it obtained for Canada more free and appreciative advertising — oral as well as printed — than any other country ever obtained by means of any act ever passed by its legislature, parliament, or congress.

Austria and Italy demur to Great Britain's treaty policy of 1898

Austria and Italy demurred to Great Britain's policy of 1897–1898 of freeing the Dominions from obligations under the old treaties of commerce. But Germany, with whom both Austria and Italy were then in alliance, was the only country that persistently and strenuously objected to the restriction by the government at Ottawa of the preferential tariff to the United Kingdom and the colonies of the British Empire.

Issues with the countries unsettled when war began

The United States, France, Belgium, Sweden, Norway, Denmark, Colombia, Mexico, and Costa Rica all accepted the new status of the British dominions. Italy and Austria created diplomatic obstacles to the new fiscal and commercial freedom of Canada and the other dominions, obstacles which had not been removed up to the time war began in August, 1914.

Talked German and talked it loudly

But Germany was the only country that embarked on a tariff war with Canada, or threatened commercial reprisals against the United Kingdom. Germany talked German, and talked it loudly. It was of no avail. The tariff war with Canada would have gone on indefinitely if Germany had not capitulated in 1910.

No objection to preferential tariff by United States

Great Britain, when she denounced her commercial treaties in 1897, had no commercial treaty with the United States — at any rate no commercial treaty quite comparable with the British-German treaty of 1865–1898.

"An arrangement within the family"

At Washington, however, there were no objections to the preferential tariff. From the time of its enactment it was regarded as a purely domestic concern of the British Empire. Sereno E. Payne, chairman of the committee of ways and means of the house of representatives, described it, in 1909, as "an arrangement within the family, to which no exception could be taken." Payne was quite as protectionist as McKinley or Dingley, or any other of his Republican predecessors in the chairmanship of the committee at Washington in which all tariff bills originate.

No suggestion of retaliation

The Dingley bill of 1897 was before congress when parliament at Ottawa enacted the first preferential tariff. No retaliation was suggested at that revision of the United States tariff; and there was no suggestion of retaliation at the tariff revisions at Washington in 1909 or 1913.

Far-reaching effect of preferential tariff of 1897

For the United Kingdom the preferential tariff of 1897 had four or five obvious results. It did more than forge a new link of empire. It ended the apprehensions, born of the successful revolt of the American colonies of 1776–1783, that the British dominions with responsible government would sooner or later assert their independence.

New diplomatic status for dominions

It impelled the British government to create a new diplomatic status — a world-standing of importance — for Canada, New Zealand, Australia, South Africa, and Newfoundland. It stimulated trade between the United Kingdom and Canada, and created a new, widespread, and continuous popular interest in the Dominion, an interest that by 1905 had helped to turn the tide of immigration from England and Scotland from the United States to Canada.[1]

Other dominions follow example of Canada

Another of these results of the original preferential tariff was easier trade relations between the United Kingdom and the other dominions. New Zealand followed the example of Canada in 1903; the Union of South Africa in 1906; and the Commonwealth of Australia in 1907. Newfoundland is the only dominion which has made no tariff concession to the United Kingdom. Its isolated position in regard to the preference is due to the fact that its tariff is exclusively for revenue.

From 1903 to the beginning of the war, and in particular from 1903 to 1907, the preferential

[1] Cf. Johnson, "A History of Emigration from the United Kingdom to North America," 1763–1912, 347.

**Preferential tariff factor in British domestic politics**

tariff was a factor in the domestic politics of the United Kingdom. In 1903 Chamberlain, who had been secretary of state for the colonies since 1895, resigned that office to devote himself to a propaganda for tariff protection to agriculture and to the industries of the United Kingdom, with preferences for imports from the dominions and crown colonies.[1]

**An assumption that had no basis**

In the earlier stages of the propaganda in England and Scotland it was assumed that the manufacturers of Canada, and of the other dominions, would agree to a reduction of the protection afforded them in the tariffs of the dominions in order to secure for Canadian grain growers and farmers and for farmers and wool growers in the other dominions, a preference in the markets of Great Britain. It was a mistaken assumption; and there was a prompt and general shattering of it in 1904, when Canadian manufacturers of woolens forced the Dominion government to put the duties on British woolens back nearly to the level of 1884–1897.

**Canada manufacturers and protectionist movement in England of 1903–1914**

After the revision of the tariff at Ottawa in the winter of 1906–1907 — the revision at which the preferential tariff was so greatly curtailed — the assumption that Canadian manufacturers would agree to anything less than an adequate protection against imports from the United Kingdom had to be abandoned by British protectionists of the Chamberlain school.

Canadian manufacturers never disguised their

[1] Cf. A. Mackintosh, "Joseph Chamberlain," 264–269.

hostility to the British preference. In season and out of season from 1897 to the beginning of the war, the Canadian Manufacturers' Association — the most politically powerful protectionist organization in the British Empire [1] — assailed the preference, and strove to rid people of the United Kingdom of "the delusion that access to the Canadian market is the natural right of the British manufacturers, regardless of the will of the country." [2]

**Making an end to a delusion**

At the revision of 1907 it was made obvious that the government at Ottawa must obey the behests of the Canadian Manufacturers' Association; and after the whittling down of the preference in 1904 and 1907, the British preferential tariff ceased to be a factor in the agitation in Great Britain for a return to a protectionist system. The agitation continued until the eve of the war. But in the later years the protectionists no longer advanced the claim of 1903–1907 that a larger market could be secured in Canada for British manufactures through a British protectionist tariff in which there would be preferences for the farm products and lumber of the Dominion.

**Behests at Ottawa that must be obeyed**

[1] "The Canadian Manufacturers' Association is like a young giant ignorant of its own power. By the exercise of its power, it could, if it chose, bring several millions of people to the verge of starvation and paralyze the industry of the whole Dominion." — Speech of G. M. Murray, secretary of the association, Winnipeg, February 9, 1910.

[2] *Industrial Canada*, the organ of the Canadian Manufacturers' Association, Toronto, October, 1908.

## VI. *The Movement for Reciprocity with the United States*

**Abortive reciprocity treaty of 1874**

One of the objects of the National Policy, to which Macdonald and the Conservatives committed the Dominion in 1879, was to secure reciprocity with the United States. There was an offer of reciprocity in the tariff of 1870; and in 1874 the government at Ottawa made the first open and direct overtures to Washington, after Confederation, for another treaty.

**Treaty rejected by senate at Washington**

Brown, of Ontario, was the Canadian commissioner. He was delegated by the Liberal government of 1873–1878, appointed a joint plenipotentiary by the government at Whitehall, and worked in association with Thornton, the British minister at Washington. After many conferences between Thornton and Brown, and Hamilton Fish, secretary of state in Grant's second administration, a draft treaty was agreed upon. It was approved at Whitehall. But the senate at Washington refused to ratify it; and today the chief interest attaching to it lies in the free list. This shows how far the government at Ottawa, with the approval of a Conservative government at Whitehall, was prepared to go in meeting one of the objections at Washington to the old reciprocity treaty of 1854–1866.

**American objections to**

After the Elgin-Marcy treaty had been in operation for four or five years, one of several objections raised against it at Washington was

that its spirit had not been observed in Canada — that the United Provinces in 1858–1859 had adopted protective tariffs with a view to the exclusion of manufactures from the United States.

reciprocity treaty of 1854–1865

Between 1866 and 1874 it was realized at Ottawa that there had been a basis for this objection at Washington. It was also realized by the Liberal administration of 1873–1878 that Canada could not hope for another reciprocity treaty conceding the free admission of fish, coal, lumber, and farm products into the United States unless concessions were made in Canadian tariffs for American manufactures.

Canadian tariff concessions to American manufacturers

Canada in 1874 was prepared to make generous concessions, concessions of much value to American manufacturers; for if the treaty had been ratified by the senate at Washington, Canada would have admitted, duty free, seventy-seven classes of American manufactures. Among these were agricultural implements, cotton goods, tweeds, and boots and shoes. It was the best offer ever made by Canada to any country, British or non-British.

Generous concessions offered in 1874

It was an offer, which, if it had been accepted by the senate, would have established conditions of trade between Canada and the United States of much more value to the manufacturers of the United States than the preferential tariff of 1897–1907 was to the manufacturers of the United Kingdom. It was of much value to American trade because it was for a certain definite period,

An offer exclusively to the United States

and because the manufactures to be admitted duty free under the proposed treaty were articles in general use in the Dominion, and all similar to those in common use in the United States. It was, moreover, an offer exclusively to the United States; for it was no part of the plan of the Mackenzie government that similar tariff concessions should be made in favor of British manufacturers.

**Overtures for reciprocity**

At least seven overtures for reciprocity were made by Canada in the thirty-three years from the denunciation of the Elgin-Marcy treaty to 1898–1899, when a high joint commission, appointed as a result of overtures made by the Laurier government of 1896–1911, failed to reach an agreement on reciprocity and other questions which had been submitted to it. Five of the overtures were made direct to Washington. Two of them — those of 1870 and 1879 — were embodied in tariff acts of the Dominion parliament.

**All offers of less value than offer of 1874**

The offer made in the tariff of 1879 — an offer that remained on the statute book of the Dominion until 1894[1] — and all the other offers made after 1879, were of much less value to the United States than the offer embodied in the rejected treaty of 1874. It was well known at Ottawa that the government at Washington would entertain no proposals for reciprocity that did not include free trade in some manufactured

[1] Cf. Canada Customs Tariff, 1894, sections 7 to 13.

goods as well as in coal, lumber, fish, and farm products. But it was not practicable, either for the Conservative governments of 1878–1896 or the Liberal governments of 1896–1911, to renew the offer of 1874, with its long list of American manufactures to be admitted into the Dominion duty free.

Impossibility of conceding terms as favorable as those of 1874

The Conservatives framed and enacted the National Policy in 1879. The Liberals adopted and greatly extended it in 1897–1907; and after high tariffs and bounties from the Dominion treasury had been established for the upbuilding of Canadian industries, Canadian manufacturers were promptly on hand at Ottawa to oppose any reciprocity agreement that would in any degree lower the tariff barriers against competition from the United States.

Interests in Canada that desired reciprocity

In the earlier years of the reciprocity movement — 1846 to 1879 — the demand for freer trade relations with the United States was strongest with the coal operators of Nova Scotia and British Columbia, and with the lumbermen and farmers of Ontario, Quebec, and the Maritime Provinces. There were no exports of grain from what are now the prairie provinces until after the Canadian Pacific Railway connected Winnipeg with Montreal in 1883; and the organized grain growers did not come into the reciprocity movement until 1905.

The movement for reciprocity in Canada easily survived the rebuff at Washington in

Attempts at Ottawa to conciliate these interests

1874; and it was to conciliate the interests that were behind it, and to attract support in the electorate for the National Policy, that Macdonald embodied the offer of reciprocity in fish, coal, lumber, and farm products in the tariff act of 1879. But after the tariff of 1879 had been in operation a few years, the coal operators of Nova Scotia, long an influential factor in Dominion politics, preferred the duties in the tariff which protected them against American competition to the free entry of their coal into the United States that they had enjoyed under the reciprocity treaty of 1854–1866.[1] Moreover, as manufacturing industries were developed and extended in Canada, it became increasingly difficult for governments at Ottawa to make proposals of reciprocal trade that would be acceptable at Washington.

Politicians humor farmers and lumbermen

Farmers, fishermen, and lumbermen persisted in their demand for reciprocity. These interests had to be humored at election times. Pledges had to be made to them; and the last two overtures from Ottawa to Washington — those of 1892 and 1898 — were not much more than perfunctory fulfillments of pledges given at the general elections of 1891 and 1896. Neither the Conservative government in 1892, nor the Liberal government in 1898, as the general election of 1911 subsequently demonstrated, was in

[1] Cf. Saunders, "Life and Letters of Sir Charles Tupper," II, 97.

a position to barter an iota of the tariff protection of Canadian manufacturers to secure free entry into the United States of coal, lumber and farm products from Canada.

Failure of negotiations of 1898–1899

The seventh attempt since 1866 to secure a reciprocity agreement broke down during the sessions of an international commission which had convened first at Quebec and later on at Washington. The Liberal government, at whose instance the commission had been appointed, then proclaimed that henceforth there would be no more pilgrimages to Washington, that the next overtures for reciprocity must come from the government of the United States.

Commercial concessions sought from Great Britain

In the sixty-four years from the peace of Versailles to 1847, and particularly in the period from the treaty of Ghent of 1814, to 1847, the United States made many overtures to Great Britain — some of them partially successful — for admission to the West India trade, and to the trade of the old British North American provinces. But in the fifty years from 1848 to 1898 all overtures for reciprocity in navigation and trade were made, either by the British North American provinces, or the Dominion of Canada, or by the British government on behalf of Canada.

Washington ceases to ask for concessions

In this half century — 1848–1898 — no overtures were made from Washington. The United States ceased to ask for reciprocity after Great Britain, without asking from any country any concessions for herself, or for any of her oversea

possessions, had established herself on a free-trade basis in 1846, and in 1847 had also abandoned her old navigation code.

After the navigation of the St. Lawrence was conceded by Great Britain in 1854, the United States — with the exception of the restoration of the fishery privileges, enjoyed from 1783 to 1812, and again from 1854 to 1866, and of reciprocity in wrecking on the Great Lakes — desired nothing in trade or navigation from Great Britain or Canada.

**Reciprocity shelved at Ottawa**

It followed, therefore, that when the negotiations of 1898–1899 broke down, there seemed as little likelihood that Washington would ever ask for reciprocity as there was that congress would repeal the duties on all imports from Canada, without asking any tariff concessions from the Dominion for the United States. This attitude of Washington admirably suited the politicians and manufacturers of the Dominion. It shelved, and shelved indefinitely, an extremely awkward issue for both political parties.

**Developments that revived reciprocity issue**

Reciprocity after 1899, so far as politicians at Ottawa were concerned, might have gone into the limbo of forgotten questions, but for two developments that came in the years from 1905 to 1910. The organized grain growers of the prairie provinces, and the farmers of Ontario, put new life into the old movement for reciprocity when the tariff commission made its tour of the Dominion in 1905–1906. In 1909 President

Taft, disheartened by popular hostility to the Payne-Aldrich tariff, conceived that the high cost of living might be reduced if the United States could draw more freely on the products of Canada.

American overtures a surprise to Canada

Reciprocity, with some slight advantages for American manufacturers, was the easiest way for a Republican administration to achieve this end. To the surprise of the government at Ottawa, and to the people of the Dominion, and to the dismay of Canadian manufacturers, who had concluded, after the Liberal government in 1897 adopted a protectionist policy, and reaffirmed that policy in 1904, and again in 1907, that they had heard the last of any lowering of the Canadian tariff wall that faces the United States, there were overtures from Washington for reciprocity, to be based, not as in 1854 on a treaty, but on concurrent legislation at Washington and Ottawa.

Proposed agreement of 1910–1911

The Ottawa government was willing to negotiate; and after conferences at Ottawa and Washington, extending from November 4, 1910, to January 21, 1911, an agreement was reached. It was more inclusive than the Elgin-Marcy treaty, which did not cover any manufactured goods. It was not nearly as inclusive as the rejected treaty of 1874; for wood pulp, paper, brass rods, wire rods, fencing wire, coke, type-casting and type-setting machines, and cream separators were about the only manufactured goods that Ottawa would agree should be imported

duty free from the United States. Duties on farm equipment, on printers' equipment, and on railway and builders' and plumbers' supplies from the United States were, as a further concession, slightly reduced.

**No departure from policy Washington adopted in 1866**

The concessions made by Ottawa on manufactured goods were, however, sufficient to enable the government at Washington to proclaim that there had been no departure from the attitude adopted in 1866, when the government took the position that no reciprocity agreement would be considered which did not include manufactured goods as well as fish, farm products, lumber, and minerals.

**Rejection of reciprocity at general election of 1911**

Legislation was enacted at Washington to bring the agreement into effect. At Ottawa, when the reciprocity bill was introduced, it was opposed by the manufacturers, the bankers, and the railway and transport interests. The Conservatives, then in opposition, took their cue from these interests. They promptly and completely abandoned their old arguments in favor of reciprocity, and so successfully filibustered against the bill in the house of commons that the Laurier government was compelled to advise the governor-general to dissolve parliament. After the most exciting and bitter electoral campaign in the history of the Dominion, the Laurier government and the reciprocity bill were defeated.

The election of 1911, which returned 133 Conservatives to the house of commons, as compared

with 86 Liberals,[1] demonstrated to the world what had been known at Ottawa since 1879. No government that is committed to the National Policy, and that becomes dependent on the electoral, newspaper, and financial support of the manufacturers and the various interests allied with the manufacturers, can enter on any agreement for reciprocal trade with the United States if the agreement involves even the slightest scaling down of the duties that protect Canadian manufacturers from competition from the United States.

**Political power of Canadian manufacturers**

The Laurier government of 1896–1911 knew this fact as well as any Conservative government from 1878 to 1916. But from 1905 to 1910 the organized grain growers were increasing rapidly in numbers, and were exercising a growing influence on politics in the prairie provinces.

**Grain growers in Dominion politics**

This fact, and a fact of much portent to the government, was brought home to Laurier and the Liberal party in the summer of 1910. Laurier, in July and August, made a political tour of the prairie provinces. He was received by the grain growers in a critical rather than an admiring mood, with an absence of reserve towards leaders in political life at Ottawa that was quite new in the history of the Dominion. Representatives of the grain growers' associations at half a score of places between Winnipeg and Calgary re-

**A premier on tour**

[1] The popular vote of the Conservatives was 669,000; Liberals, 625,000.

called to the premier the pledges that the Liberal party had given to the Dominion at the Ottawa convention of 1893.

**Repudiation of pledges recalled**

Laurier was reminded with much bluntness of utterance that the tariff pledges had been repudiated by the Liberal government in 1897 and 1907. He was told that the grain growers were grieviously disappointed at this repudiation; and told with much emphasis that the grain growers' associations were intent on lower duties in the Dominion tariff — that lower duties were essential to the success of the grain growing business in the prairie provinces — and also informed that the grain growers were still intent on reciprocity with the United States.[1]

**A Dominion election in sight**

The grain growers were thus insistent in their demands for lower duties and for reciprocity; and during Laurier's political tour in 1910 they made it plain to the premier and to the Liberal party, that they were in politics to stay. The new political movement in the prairie provinces was all the more important because in 1910 parliament at Ottawa was more than halfway through its statutory term of five years.

The Laurier government accordingly took a

[1] Cf. *Grain Grower's Guide*, July 27, August 3, 10, and 17, 1910; *Globe*, Toronto, July 23, 25, 28, and 30, and August 4 and 5; *Farmers' Tribune*, Winnipeg, August 3; *Weekly Phœnix*, Saskatoon, August 3; *Standard*, Regina, August 4; *Free Press*, Winnipeg, September 7; and *Sun*, Toronto, August 10, September 28, and October 19, 1910.

chance in the interest of a movement that the Liberal party had championed for thirty years before it went over to protection in 1897. With the manufacturers and bankers and the transport interests denouncing reciprocity — declaring that it would end the connection with Great Britain — the odds were against the government; and it encountered defeat in a cause that both Liberals and Conservatives had continuously advocated from 1846 to 1896.

The government takes a chance

## VII. *Influence of the United States on the National Policy*

In no department of the political life of Canada was American influence more potent than in the origin and development of the National Policy. Canada was greatly influenced by the success of manufacturing industries in the United States, by the refusal of the United States from 1866 to 1909 to negotiate another reciprocity treaty on terms which Canada could meet, and by increases in the protective duties of American tariffs from 1880 to 1897.

Increases in protective duties by congress

Of these influences the rejection by the senate of the reciprocity treaty of 1874 was most powerful in the formative period of the National Policy. Had the treaty been accepted it would have restored to the farmers and lumbermen of eastern Canada much of the prosperity of 1854–1866. With rural Canada enjoying prosperity in any

Rejection of reciprocity treaty of 1874

degree comparable with that of the period of the Elgin-Marcy treaty, it is inconceivable that Macdonald, at the general election of 1878, could have persuaded the electorate to sanction the National Policy, framed by a convention of manufacturers at Toronto in 1876, and endorsed and advocated by the Conservatives, then in opposition at Ottawa, in the parliamentary sessions of 1876, 1877, and 1878.

**Effect of the McKinley tariff of 1890**

The critical years of the National Policy were from the second revision of the tariff in 1884 to the third revision in 1894. This was the decade of what is known in Canadian political history as the disappointing census of 1891. There was a general election in 1891, and it was a stroke of rare good fortune for the Conservative government that the McKinley tariff had been enacted at Washington in 1890.

The McKinley tariff affected farmers and lumbermen in Canada more adversely than any development at Washington had done since the denunciation of the Elgin-Marcy treaty in 1865. It created an emotional atmosphere all over eastern Canada favorable for the advocates of the National Policy, who at that time, and until 1897, were exclusively of the Conservative party. The Conservative government, in 1891, instead of sustaining losses, as is usual with a government that is becoming stale through long tenure of office, slightly improved its position in the house of commons, and continued in office until 1896.

The Dingley tariff of 1897, with duties much higher than those of the McKinley tariff, greatly helped the Liberal party, after it had abandoned its fiscal policy of 1874–1896, and made peace with the protectionists. At the revision of the tariff in 1906–1907, Canadian manufacturers asked for duties as high as those of the Dingley tariff.

**The Dingley tariff of 1897 aids the protectionist Liberal party**

Fielding, minister of finance, refused to consider this request. If it were complied with it would mean that the tariff would be framed not at Ottawa, but at Washington. Concessions, however, had to be made to the manufacturers, who had long complained of the high duties of the Dingley tariff. Increases were made in all the protective duties; and at this revision of 1906–1907 the Dingley act was nearly as serviceable to the Liberals as the McKinley act had been to the Conservatives at the general election of 1891.

Manifestly from 1858 to 1917, the year in which the Conservative government at Ottawa accepted the offer of reciprocity in wheat and flour — an offer made in the Underwood-Simmons tariff of 1913 — the fiscal policy of Canada, first the policy of the United Provinces, and then for forty-five years the policy of the Dominion, was much influenced by the fiscal policy of the United States from 1840 to 1913. Tariff-making at Washington, especially from 1880 to 1913, was watched with keenest interest from all over

**Canadian interests in tariff-making at Washington**

the Dominion; for Canada's nearest neighbor has always been her biggest customer for a large range of the products of her mines, forests, and farms, and for an increasing quantity of the catch of the Atlantic coast fisheries of the Dominion.

# CHAPTER XVI

## THE NATIONAL POLICY AND THE DEVELOPMENT OF CANADA

Industrial centers of eastern Canada

MATERIAL results of the National Policy on the industrial development of the Dominion are visible, even to a casual observer, from the window of a railroad car on a journey through the central provinces or the Maritime Provinces. They can be seen in Toronto, Hamilton, Sault Ste. Marie, and London; Montreal, Quebec, Valleyfield, Three Rivers, and St. Hyacinthe; Halifax, New Glasgow, and Sydney; St. John, Fredericton, and Moncton. They are, in fact, manifest in every city and factory town of Canada east of the Great Lakes; and few of these manifestations of industrial development and prosperity date further back than Confederation. Most of this industrial activity has been developed since 1879.

Industrial position at Confederation

At Confederation there were four or five cotton mills in the British North American provinces. There were four furnaces — all quite small — where charcoal pig iron was made. There were 2278 miles of railroad, and not a cargo carrier on the Great Lakes on the Canadian register that was built of iron or steel.

In 1917 there were in the Dominion twenty-nine cotton mills, with 21,400 looms and 106,800

Growth of the cotton industry

spindles. In 1867 Canada imported 1300 bales of cotton. The mills of Ontario, Quebec, Nova Scotia, and New Brunswick in 1916 called for 208,000 bales.

Capacity of modern blast furnaces

The output of iron at the charcoal furnaces in New Brunswick, Nova Scotia, and Quebec in the year of Confederation did not exceed 5000 tons. In the jubilee year there were seven blast furnaces in Nova Scotia and eleven in Ontario, with an aggregate daily capacity of 4600 tons. They were all coke furnaces, equal in design and equipment to any of the furnaces at Pittsburgh or Cleveland.

Rail mills

At Confederation, and in fact until 1904, Canada imported all her rails from Great Britain or the United States. For ten years before the war there were rail mills at Sault Ste. Marie and Sydney, with a capacity equal, in normal times, to the demand of Canadian railways; and in some years, between 1907 and 1914, rails from these mills were exported.

Milling of flour

Commercial milling of flour was in its infancy in 1867. There was an export trade in flour, confined to Ontario. The flour went only to the Maritime Provinces, the United Kingdom, or Newfoundland. In no year before 1879 — the year when the National Policy was adopted — did the exports of flour reach half a million barrels. In 1914 there were 600 flour mills in the Dominion, of an aggregate daily capacity of 112,000 barrels. Of these mills 350 were in Ontario and 120 in the prairie provinces.

Exports of flour

Exports of flour increased with the extension of grain growing in Manitoba, Saskatchewan, and Alberta, and with the establishment of flour mills at Kenora, Winnipeg, Brandon, and other cities west of the Great Lakes. From 1902 to 1914 there was a large development of the flour trade with non-British countries, — with China, Denmark, Holland, Japan, and Norway, — and in 1915 the total exports of flour reached nearly five million barrels. Three quarters of a million barrels went to non-British countries.

Industrial census of 1915

A special census of industries taken in 1915 — a year in which war expenditures created an industrial and commercial prosperity without precedent — brought out the fact that there were 21,291 manufacturing establishments in the Dominion. Over 9000 were in Ontario. Over 7000 were in Quebec. Nova Scotia had nearly 1000.

A pay roll of half a million

The census further showed that there were 511,000 men, women, and children on the pay rolls of these establishments; that in 1915 nearly $288,000,000 was disbursed in salaries and wages; and that the aggregate value of the output was $1,392,516,953.

Half a century of railway building

An era of railway building began soon after Confederation; for it was a condition with the Maritime Provinces that the Intercolonial Railway should be constructed. It was also a condition with British Columbia that it should be connected by railway with eastern Canada.

Railway building, in fact, was continuous after 1873. It was going on up to the beginning of the war. Even the war did not put a stop to it; for while the mileage of Canadian lines in 1914 stood at 30,755, by the end of 1916 it had been increased to 37,434 miles.

**Government aid to railway development**

Towards the cost of these railways the Dominion government, between 1867 and 1916, contributed $184,719,000; the provincial governments contributed $37,437,000; and the municipalities nearly $17,000,000. The Dominion government also granted the railway companies 31,864,000 acres of land in the prairie provinces; and the provinces that retained their crown lands at Confederation — British Columbia, Ontario, Quebec, New Brunswick, and Nova Scotia — granted 13,120,000 acres of their domain to aid in the construction of railways.

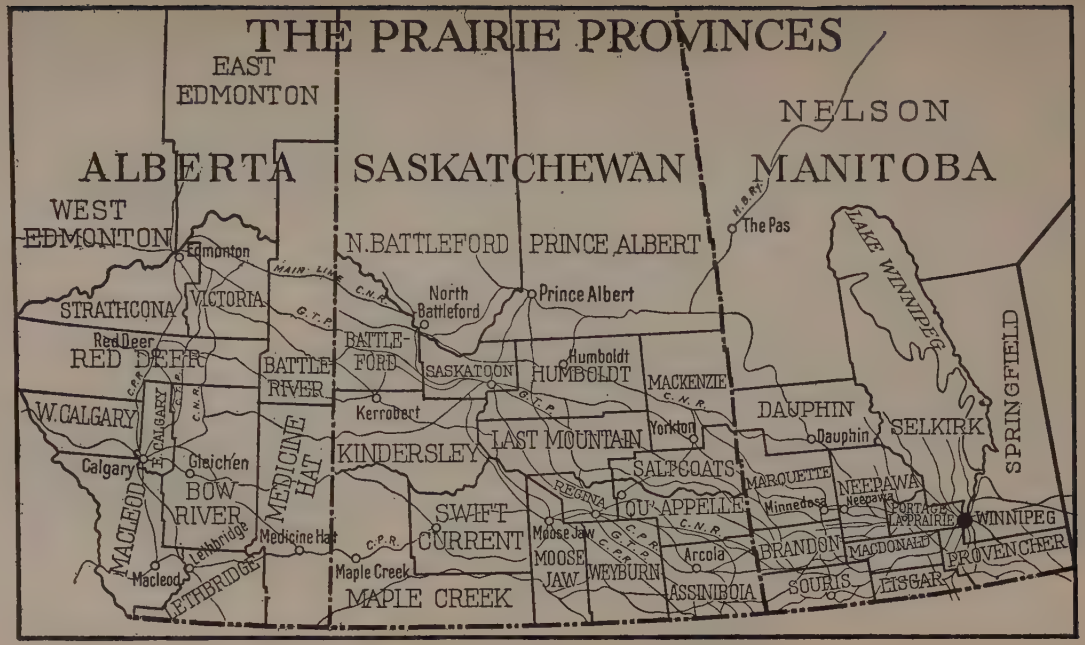
**Politics and railway building**

Canada in 1916 had a population of 185 for each mile of railway, as compared with 400 in the United States. Politics, rather than transport needs,[1] accounted for much of the railway building between 1904 and the beginning of the war, building largely due to the railway policy of the Liberal government of 1896–1911.

**Transcontinental railways**

Two new transcontinental lines were built between 1905 and 1914. There was much double-tracking of the Canadian Pacific, west of Fort William, to facilitate the movement of grain

[1] Cf. A. W. Smithers, chairman of Grand Trunk Railway Company. "The Answer," 2.


THE PRAIRIE PROVINCES
EAST EDMONTON
NELSON
ALBERTA
SASKATCHEWAN
MANITOBA
WEST EDMONTON
Edmonton
MAIN LINE C.N.R.
N.BATTLEFORD
PRINCE ALBERT
H.B.R.
The Pas
LAKE WINNIPEG
STRATHCONA
VICTORIA
G.T.P.
North Battleford
Prince Albert
Red Deer
RED DEER
BATTLE-FORD
BATTLE RIVER
SASKATOON
Humboldt
HUMBOLDT
MACKENZIE
C.N.R.
SPRINGFIELD
W.CALGARY
C.P.R.
CALGARY
C.N.R.
Kerrobert
G.T.P.
DAUPHIN
Dauphin
SELKIRK
Yorkton
LAST MOUNTAIN
KINDERSLEY
Calgary
Gleichen
SALTCOATS
MARQUETTE
NEEPAWA
Neepawa
Minnedosa
BOW RIVER
MEDICINE HAT
REGINA
QU'APPELLE
PORTAGE LA PRAIRIE
WINNIPEG
MACLEOD
Lethbridge
Medicine Hat
SWIFT CURRENT
C.P.R.
Moose Jaw
C.N.R.
C.P.R.
G.T.P.
Arcola
BRANDON
MACDONALD
PROVENCHER
Macleod
LETHBRIDGE
Maple Creek
MOOSE JAW
WEYBURN
ASSINIBOIA
SOURIS
LISGAR
MAPLE CREEK

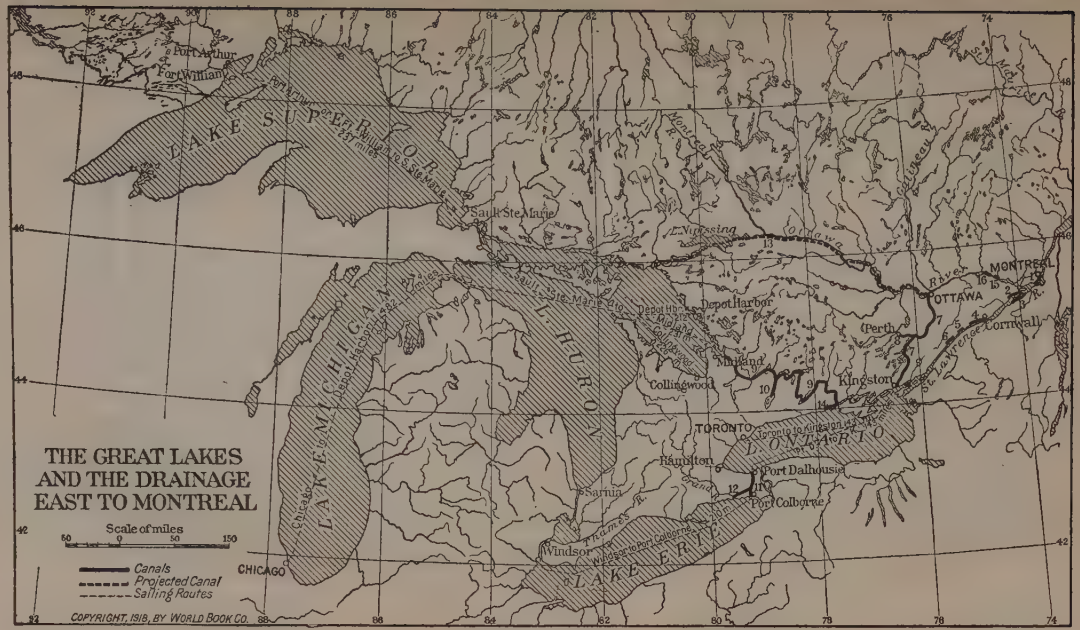
to the head of the lakes. There was in these years also much double-tracking of the Grand Trunk, the pioneer line of eastern Canada, which handles much of the western grain en route from transfer ports in Ontario to tidewater at Montreal and Portland, and also serves many of the industrial cities and towns of the central provinces. New lines were also built that were not of any of the three transcontinental systems.

**Railway to Port Nelson, Hudson Bay**

The most important of these new lines was the government-owned railway from Le Pas, on the Great Saskatchewan river, in the province of Manitoba, to Port Nelson, on Hudson Bay. The Laurier government of 1896–1911, in direct response to an agitation by the organized grain growers of Manitoba, Saskatchewan and Alberta, committeed the Dominion to this undertaking, which, with the wharves and elevator at Port Nelson, entailed a charge of $26,000,000 on the Dominion treasury.

KEY TO MAP ON PAGE 475

1. Lachine canal
2. Soulanges canal
3. Beauharnais canal
4. Cornwall canal
5. Rapide Plat canal
6. Galops canal
7. Rideau canal
8. Perth branch of Rideau canal
9. Trent canal
10. Scugog branch of Trent canal
11. Welland canal
12. Grand River feeder
13. Ottawa-Georgia Bay canal (projected)
14. Murray canal
15. Carillon canal
16. Greenville canal


THE GREAT LAKES
AND THE DRAINAGE
EAST TO MONTREAL
Scale of miles
50 0 50 150
Canals
Projected Canal
Sailing Routes
COPYRIGHT, 1918, BY WORLD BOOK CO.
LAKE SUPERIOR
LAKE MICHIGAN
LAKE HURON
LAKE ERIE
LONTARIO
Port Arthur
Fort William
Sault Ste Marie
Depot Harbor
Midland
Collingwood
Kingston
Perth
Cornwall
OTTAWA
MONTREAL
TORONTO
Hamilton
Port Dalhousie
Port Colborne
Sarnia
Windsor
CHICAGO
Chicago
Thames R.
Grand
Montreal R.
Ottawa
Gatineau
St. Lawrence R.
Sault Ste Marie to Depot Harbor
Depot Hbr. to Midland
Toronto to Kingston
Windsor to Port Colborne
Port Arthur to Fort William
Fort William to S. Ste Marie
L. Nipissing
Chicago to Depot Harbor

**A new outlet for western grain**

The line is 420 miles long. It was pushed through a wild and altogether unsettled country, solely to provide an additional route to Great Britain for grain from the prairie provinces, and thereby relieve the pressure in the months of September, October, and November each year on the three transcontinental railways that connect the grain growing provinces with the numerous transfer elevators at Fort William and Port Arthur.[1]

**Over building of railways**

The net result of this almost feverish activity in railway building from 1904 was that 10,000 miles were added to the railway mileage; and in 1916 the Dominion woke up to the fact that, as regards railways, it was seriously overbuilt.[2]

**Water transport**

From 1884 to 1916, and particularly from 1900 to 1914, when the grain trade of the west was increasing with great rapidity, the development of water transport and the building of grain carriers for service on the national grain route from Port Arthur and Fort William to Montreal nearly kept pace with the building of railways.

A magnificent lock was built at Sault Ste. Marie. The Welland and St. Lawrence canals — seventy-four miles long — were deepened to

[1] Cf. Report of Proceedings at Farmers' Delegation to Members of the Government, December 16, 1910, Ottawa, 1911, 29–31; "The Hudson Bay Railroad," *Queen's Quarterly*, Kingston, July, August, September, 1916, 38–45; H. of C. Debates, May 3, 1916, and June 11, 1917.

[2] Cf. Report of Royal Commission on Railways, 1915–1916; "Canada's Future: A Symposium of Official Opinion," 1916, 113.

fourteen feet. Canal tolls were abolished. The St. Lawrence ship channel, which extends for seventy miles below Montreal, was widened to 450 feet, and dredged to a depth of thirty feet at low water. Great improvements were also made at all the lake and tidewater ports on the grain route.

Canals on the grain route

A large fleet of lake carriers — some for service on the upper lakes and some, of lesser tonnage, for both lake and canal service — went on the Canadian register in the years from 1900 to 1914. Steel shipbuilding yards were established at Port Arthur, Collingwood, Toronto, Kingston, Montreal, Levis, Sorel, and New Glasgow; and at all these ports except New Glasgow dry docks were built as part of the equipment of the grain route.

Shipbuilding yards

Liberal subsidies were granted to these docks by the Dominion government. By this aid, and also by a tariff duty of twenty-five per cent on the cost of repairs, made to Canadian vessels in American shipyards, the government extended the National Policy to the steel shipbuilding industry.

Government aid to shipbuilding

These are some of the more visible evidences of the success of the National Policy. It has not achieved all that was expected of it in 1879, especially as regards increase of population. The expectation was that protection to industries would stop the exodus to the United States from central Canada and the Maritime Provinces, and also attract a large immigration from overseas.

National Policy and increase in population

A disappointing census

Immigration did not increase nearly so quickly as was expected, nor was the exodus to the United States stopped. The official records for 1881–1891 showed that 886,000 immigrants came to Canada. It was confidently expected that the census of 1891 would show a population of more than five millions. It gave 4,833,000 — only 508,000 more than the population in 1881. The increase was disappointing to ministers at Ottawa who were responsible for the National Policy. It was equally so for the protected manufacturers, who feared that the Conservative government might lose confidence in the National Policy.

Period of large immigration

The stream of immigration continued small until the end of the next decade — 1891–1901. Then it came in a flood. Immigrants poured in from Great Britain, from the United States, and from nearly every country of continental Europe. The immigration was so cosmopolitan that in 1917 forty-eight translations of the Bible were on sale in Winnipeg.

Three million immigrants arrived in the years from 1900 to 1915 — only half a million less than the total population of the Dominion at Confederation. About half these newcomers arrived in the decade from 1901 to 1911; yet despite this large inflow the census of 1911 showed an increase of only 1,835,000 over the returns of 1901.

The Dominion government began its propa-

ganda in 1878. In that year $36,000 was spent on it. In every subsequent year there were larger expenditures, until in 1914–1915 the outlay reached $1,859,000. Between 1878 and 1911, the year of the last census, the total expenditure on immigration was $16,146,000.

Immigration propaganda expenditures

Provincial governments in these years also spent much money in advertising the special attractions of their provinces. From 1883 the Dominion government had tens of millions of acres of accessible land in what are now the prairie provinces, on which free homesteads for immigrants were available. Despite an immigration propaganda on a scale without precedent in any English-speaking country, free homesteads of 160 acres each for settlers, thirty-two years of protection for all manufacturing industries, and twenty-eight years of bounties for the iron and steel industry, and also much valuable direct and indirect aid to industries by hundreds of municipalities in eastern Canada, population from 1871 to the census of 1911 was not quite doubled.

Slow growth of population

One obvious result of the National Policy was the building up of the cities of central Canada at the expense of the rural areas and of agriculture in Ontario. The census of 1911 showed a decrease in population in forty-four out of the forty-five rural electoral ridings. This decline in the rural and farming population had gone on, moreover, notwithstanding that in the decade

Effect of National Policy on rural population

covered by the census, 400,000 of the immigrants arriving at Canadian ports had given Ontario as their destination. While this decrease in rural population was going on, the population of Toronto increased from 208,000 to 376,000; that of Hamilton from 52,000 to 82,000; and that of London from 38,000 to 46,000.

**Farm labor and farm equipment**

The National Policy made Canada a less desirable place for farmers — especially for farmers in an industrial province like Ontario — because it increased the cost of farm equipment, clothing, and many domestic supplies,[1] and also stripped rural Canada of farm laborers. It is these conditions that explain the agrarian movements in Canadian politics since Confederation — the agitation of the Patrons of Industry of 1890–1896, and the more recent and much more widely extended movement of the grain growers' associations of the western provinces and of the United Farmers of Ontario.

**Agrarian political movements**

Canada has had singularly few independent movements in politics. The rigidity of the two-party system, and the remarkable hold that it has had on the people since 1867, are against any independent movement in Dominion politics. So is the extent to which the daily and weekly newspapers of the Dominion are tightly bound either to the Conservative or the Liberal party; and the system of political patronage as it exists

[1] "The Farmers' Platform," 17–19; "Homesteaders' Tariff Burdens," *Grain Growers' Guide*, October 5, 1910.

at Ottawa and at the provincial capitals, the scattering of seven and a half million people over half a continent, and the stringing out of settlement and population along a line 4000 miles in length, also make the organization of an independent movement in Dominion politics exceedingly difficult.

There are Labor and Socialist movements in some of the cities. Occasionally in the years from 1900 to 1917 a Labor or a Socialist candidate was elected to a provincial legislature. But in the first half-century of Confederation only farmers and grain growers, when independently organized, and acting apart from the Conservative and Liberal parties, were able to influence policies of the government at Ottawa or the policies of the provincial governments of Ontario, Manitoba, Saskatchewan, and Alberta. Both these agrarian movements — the Patrons of Industry and the grain growers' organizations — had their origin in economic conditions developing out of the National Policy.

**The National Policy and the cost of living**

At Confederation, and for ten or fifteen years after 1867, Canada was the least expensive of English-speaking countries to live in. More was possible in one of the smaller cities of Ontario — a city of good amenities — on an income of twelve or fifteen hundred dollars than in any other English-speaking community in any part of the world. There was a time when English military officers and civil servants on pension,

and other annuitants, emigrated to Ontario, because of the beauty and amenities of its smaller cities and its towns and villages, and because in these places a little money went a long way.

**Its levy on farmers and wage earners**

Immigration from Great Britain to Canada in those years was to Ontario. In the immigration propaganda emphasis was laid on the low cost of living. The National Policy gradually changed this condition. The cost of living constantly moved upward in the twenty-five years before the war; and on the eve of the war there was no country in the English speaking-world where the cost of living was higher, or where a protective tariff was costing farmers and grain growers and salary and wage earners a larger proportion of their income.

# CHAPTER XVII

## PROVINCIAL LEGISLATURES AND GOVERNMENTS

A survey

IN the preceding chapters most attention has been devoted (1) to the evolution of the Dominion of Canada; (2) to the evolution and working of the political institutions of which Ottawa is the center; and (3) to the economic and fiscal policies, first of the old British North American provinces, and afterwards of the Dominion. It is the Dominion of Canada — its central government and its politics — that most interests the United States and the other English-speaking countries, and also the world at large.

Provincial capitals

The legislatures and governments at the provincial capitals have, accordingly, been left for the concluding chapter. The powers, duties, and functions, so definitely assigned by the British North America act to the provinces, have already been detailed. They are so clearly defined in the act, which also decrees that all classes of subjects not specifically assigned to the provinces fall automatically to the Dominion, that there can never be much conflict or friction between the Ottawa government and the governments at the provincial capitals.

An account has also been given of the method of appointing lieutenant-governors, and of the

Franchises and economic interests

franchises on which the nine provincial legislatures are elected. The economic interests of the nine provinces, and the racial and religious interests peculiar to Quebec, have also been described; and there has also been made clear the connection between political leaders at Ottawa and political leaders at the provincial capitals, particularly at crises at Ottawa, when Dominion administrations are in process of formation.

Bicameral legislatures

Furthermore, in the history of Confederation, it has also been told how it comes about that today only two of the nine provincial legislatures — Quebec and Nova Scotia — are bicameral. The provincial legislatures existing in 1867 were given power to amend the constitutions of the provinces, except as regards the office of lieutenant-governor.

Single-chamber legislatures

Ontario, in 1867, when the union with Quebec of 1840 came to an end, abandoned the bicameral system. British Columbia organized its legislature on the single-chamber plan before it came into Confederation in 1871. Prince Edward Island made a similar reform before it became a province of the Dominion in 1873.

Bicameral system discarded

Manitoba, the first province created and provided with a constitution by parliament at Ottawa, was organized in 1870, with two chambers. The legislative council at Winnipeg, which opened its first session with only seven members, disappeared at the end of the session of 1876. The second chamber of the New Brunswick

legislature survived until as long after Confederation as 1892.

In 1905, when parliament created the provinces of Saskatchewan and Alberta, and provided them with constitutions, the single-chamber plan for provincial legislatures was so well established, was working so satisfactorily, and the principle was so generally accepted, that it was enacted in the organic law that the legislatures should have only one chamber, to be known as the legislative assembly.

**Legislative councils**

No claim is ever made that the legislatures of Quebec and Nova Scotia, with their elected legislative assemblies, and legislative councils appointed nominally by the lieutenant-governor acting for the crown, but in practice by the premier of the province, are one whit superior to the legislatures of the provinces in which there are only legislative assemblies.

Legislative councils, in the provinces in which they still survive, have even fewer friends in the constituencies and in the press than the senate at Ottawa; for while there are ninety-six members of the senate, there are only twenty-four legislative councilors at Quebec and twenty-one at Halifax.

**Their value in politics**

The legislative councils are of some slight value to the political party in power. They add a little to the patronage of the premiers. But, even if the provincial governments of Quebec and Nova Scotia were disposed to follow the

example of the five provinces that since 1867 have discarded legislative councils, there are difficulties that are not easy to surmount.

**Obstacle to abolition of councils**

Legislative councilors, like senators at Ottawa, hold office for practically as long as they have the strength to carry themselves to the legislative chambers. In Quebec a councilor is paid a salary of $1500. At Halifax the salary is $700. These salaries have come to be regarded as pensions; and at Halifax when attempts were made to abolish the second chamber, it was found that men appointed to the council, under a pledge to vote for its abolition, developed conscientious scruples against implementing the pledge "as it is unconstitutional to pledge oneself in advance to vote in any particular way."[1] If salaries ceased to be paid at Quebec and Halifax, the legislative councils there would fall of their own weight. The outside props are few, and they are admittedly weak and rickety.

**Membership of legislatures**

Membership of the legislatures in the seven provinces in which there are no upper chambers varies from thirty in Prince Edward Island to 106 in Ontario. There are eighty-one members of the legislative assembly of Quebec. The odd member is from the Magdalen Islands, which have been represented in the assembly since 1897.[2]

[1] Riddell, "Constitution of Canada," footnote, xxi, 82.

[2] In the winter before the war — the winter of 1913–1914, — no fewer than 819 men were engaged in the legislative work

Salaries of members of legislatures range from $200, with an additional allowance of $400 for the speaker, in Prince Edward Island, to $1500, with a salary of $4000 for the speaker, in Quebec. The term of a legislature, like the term of parliament at Ottawa, is not definitely fixed. It may not extend beyond four years.

Salaries of members of legislatures

In its organization a government at a provincial capital is as nearly as possible a replica of the government at Ottawa, with a lieutenant-governor, domiciled at government house, in place of the governor-general; and with a secretary of state — or provincial secretary — through whom communication is maintained with the central government acting through the department of state at Ottawa.

Organization of provincial government

With the colonial office in London, provincial governments, on the comparatively few occasions on which they come into touch with Whitehall, communicate through the department of state and the government at Ottawa.

Colonial office and provincial governments

Responsible government has been established at all the provincial capitals since 1870, when British Columbia attained the power, rank, and

Party lines

of the Dominion and the provinces. At Ottawa there were 308 so employed — senators, 87; members of the house of commons, 221. At Quebec the number of members of the assembly and of the council was 105; at Toronto, 106; at Halifax, 59; at Fredericton, 46; at Charlottetown, 30; at Winnipeg, 41; at Regina, 41; at Edmonton, 41; and at Victoria, 42.

dignity that the other British North American provinces had enjoyed for twenty years before Confederation. Party lines in the provincial legislatures are the same as in Dominion politics — Liberal and Conservative. In some of the legislatures there are usually two or three Labor or Socialist members, acting apart from the older parties, and not accepting instructions from either the government or the opposition whips.

**Legislature and cabinet**

At each of the provincial capitals the relations between the legislature and the ministry — often called, as at Ottawa, the cabinet or the council — are the same as at Ottawa; and the procedure of the cabinet, in its day by day business, and in the event of a ministerial crisis, is the same as at the Dominion capital.

**Conditions under which cabinet retains power**

A provincial ministry remains in power only so long as it can command a majority in the legislative assembly. If defeated on a vote in the assembly, it must either ask the lieutenant-governor to dissolve the legislature, or the premier must tender his resignation to the lieutenant-governor, in which case the tenure of office of all his colleagues of the ministry, in accordance with the constitutional practice at Ottawa, comes to an end.

**Dissolution of legislature**

In the event of a premier resigning without asking for a dissolution of the legislature, the procedure of the lieutenant-governor is similar to that of the governor-general under similar circumstances. He sends for the leader of the

opposition and calls upon him to form an administration. After the leader of the opposition has succeeded in this undertaking — after he himself has become premier, and has formed his ministry — it is open to him to ask the lieutenant-governor for an immediate dissolution, if he is convinced that his following in the legislative assembly is not sufficiently numerous and cohesive to enable him to carry on the king's business.

**Ministry in Ontario**

The ministry of Ontario, as it existed in 1917, is not quite typical of provincial ministries. The political civilization of Ontario is more advanced, and more comprehensive, than that of some of the other provinces. There is a larger population, and more cities and urban life, than in any of the other provinces; and Ontario stands towards the other provinces in somewhat the same relation as Massachusetts stands towards the other states of New England.

**A typical provincial ministry**

The offices constituting the ministry at Toronto are, however, sufficiently typical to illustrate the composition of a provincial government. They are:

(1) Prime Minister, and

(2) President of the Council — two offices usually held, as at Ottawa, by the same man.

(3) Attorney-General.

(4) Provincial Secretary.

(5) Provincial Treasurer or Minister of Finance.

(6) Minister of Agriculture.

(7) Minister of Education.
(8) Minister of Public Works.
(9) Minister of Lands, Forests, and Mines.

**Members without portfolio**

The long-standing usage at Ottawa of appointing men to the cabinet without portfolios — with the inherent advantages and disadvantages — has been established at Toronto and other of the provincial capitals. In the Whitney administration — a Conservative administration — at Toronto, as it stood in February, 1912, there were no fewer than three members without portfolios. Every member of a provincial cabinet, with or without portfolio, must, of course, be a member of the legislature.

**Salaries of premiers and ministers**

Salaries of provincial premiers range from $2700 in Prince Edward Island, where the premier usually holds also the office of attorney-general,[1] to $9000 in Ontario, where the premier is also president of the council. Salaries of other ministers range from $1500 in Prince Edward Island to $6000 in Ontario and Quebec. These salaries are in addition to salaries or indemnities — to use the Canadian parliamentary and legal term — received as members of the legislature.

**Franking letters**

Members of legislatures, unlike members of parliament, do not have the privilege of franking letters to be carried through the mails. But near the table of the clerk, on the floor of the legislative chamber, is a basket into which members

[1] Premier, $1000; attorney-general, $1700.

throw letters written on public business, and these letters are stamped at the expense of the province.

Lieutenant-governor

Salaries of lieutenant-governors, paid by the Dominion government, range from $7000 in Prince Edward Island, to $10,000 in Quebec and Ontario. The upkeep of government house, the official home of the lieutenant-governor, is defrayed by the province. There is no fixed term for the lieutenant-governor. He holds office "during pleasure"; but he cannot be removed within five years of his appointment, except for cause assigned. This provision prevents vacation of the office merely in order to add to the patronage of a new government at Ottawa.

An even keel in politics

Like the governor-general at Ottawa, a lieutenant-governor at a provincial capital must ride on an even keel as regards political parties and all political agitations. In nearly every instance the appointment of lieutenant-governor is made as an acknowledgment of partisan service rendered to the political party in power at Ottawa.

Once inside government house, however, all party activities must cease. The office is rarely held by a man who has been in the front rank in parliamentary or administrative life at Ottawa. Men who attain this rank, and who can hold on to their seats in the house of commons, stay at Ottawa to the end of the chapter. A lieutenant-governorship is usually bestowed on a man of

the "old party war horse" variety of politicians — on a man who needs an income, and realizes that he has reached an age at which he can do little more continuous hard work.[1]

**Link between province and Dominion**

As the governor-general is the most apparent link connecting the Dominion with Great Britain, so the lieutenant-governor is the most apparent link connecting a province with the Dominion. In all the ceremonies of state, at a provincial capital, the lieutenant-governor takes much the same part as the governor-general in state ceremonies at Ottawa. He formally opens and closes the sessions of the legislature, with a speech from the throne, which as regards arrangement and phrasing is closely patterned after the speech from the throne at Ottawa.

**Organization of legislature**

A provincial legislature is organized for business in exactly the same way as parliament. At the opening of a new session there is the debate on the address in reply to the speech from the throne. Committees are organized as at Ottawa. Bills are read a first and second time, considered in committee, reported back to the assembly, read a third time, and then receive the royal assent.

[1] "The lieutentant-governorship is an office where the average occupant may be much seen and little heard. The office, apart from its social side, is, in fact, designed to take up so little of a man's real time, that the suggestion has been made to combine it with that of the chief-justiceship in the respective provinces." — *Tribune*, Winnipeg, November 6, 1917.

Classification of legislative measures

Measures before the assembly are classified as at Ottawa or at Westminster into (1) government bills, (2) private members' bills, and (3) private-bill legislation. Members have the same opportunities as in the parliament of the Dominion of introducing bills and motions, and seeking information from the government by questions addressed in the assembly to ministers.

Budget and estimates

Procedure on the budget and on the estimates is similar. The budget system, with ministerial responsibility for every item of expenditure and for every tax imposed, is as well established, and as closely adhered to, at the provincial capitals as at Ottawa. The event of a legislative session at a provincial capital, in normal years, is the exposition of the budget by the provincial treasurer, its discussion in the assembly, and the passing of any bill that may be necessary for raising additional taxation, or reducing taxes previously sanctioned by the legislature.

Sources of revenue

In the provinces which possess crown lands — British Columbia, Ontario, Quebec, New Brunswick, and Nova Scotia — the treasury is replenished from three sources. These are (1) two annual subventions — one a fixed sum determined when the province came into Confederation, and the other a grant based on the population of the province as ascertained at the last decennial census, both paid out of the Dominion treasury; (2) direct taxation, such as license fees, income tax, and succession duties, levied and collected

by virtue of enactments of the legislature; and (3) money accruing from the sale or renting of crown lands, from stumpage dues collected in respect of logs cut on crown lands, and from royalties on coal and other minerals; for all minerals in Canada are crown property.[1]

**Direct taxation**

All the legislatures have power to levy direct taxation; and until 1915, when the Dominion parliament, as a war measure, passed an act levying a tax on excess profits, the only direct taxation in Canada was that collected under provincial enactments.

**Loans and subsidies**

Legislatures have power to pledge the credit of a province to raise loans. They have power also to grant subsidies to railway companies. This power was so lavishly used from 1876 onward that by the end of 1916 the total amount paid by provincial governments to railway companies stood at nearly thirty-seven and a half million dollars.

**Province of legislatures**

Provincial legislatures deal with what may be described as municipal affairs — using the word in a comprehensive sense, and "generally," to quote the British North America act, "all matters of a merely local or private nature within the province."

**Checks on legislatures**

Under the organic law of the Dominion there are three checks on the legislatures. The lieu-

[1] In the year before the war — 1913 — royalties on coal alone turned nearly $800,000 into the treasury of the province of Nova Scotia.

tenant-governor can withhold the royal assent to a bill. He can reserve a bill for the governor-general-in-council at Ottawa; and even after a bill has received the royal assent and become an act, the governor-general-in-council — practically the cabinet at Ottawa — can disallow it. Disallowance, however, must be proclaimed within one year after enactment.

**Checks that are obsolete**

Under responsible government, as it exists in all the provinces, the two checks that the lieutenant-governor can exercise can seldom come into service. They are about as obsolete as the king's veto at Westminster and at Ottawa, and for the same reasons. The real check is the power of disallowance at Ottawa.

**Power of disallowance**

In the early days of Confederation the government at Ottawa was imbued with the idea that the relation between the Dominion and the provinces was analogous to that between parent and child. It acted accordingly. Disallowance was frequent. To the older provinces that had enjoyed the full measure of responsible government for nearly twenty years before there was a parliament and privy council at Ottawa, this attitude of the cabinet was disturbing. It was, moreover, everywhere resented.

**Assumed power of Dominion curtailed**

Cases were carried to the judicial committee of the privy council at London — the court of last resort for issues arising in Great Britain's overseas possessions. This court overthrew the early conception of Ottawa as to the status of the

provinces, by a series of decisions which clearly established that the provinces, acting within the scope of their powers, conferred on them by the organic law of the Dominion, are almost sovereign states, and that they are entitled to exercise all the prerogatives of the crown not conferred on the Dominion.[1]

**Disallowance infrequent**

Only very infrequently are acts of the provincial legislatures disallowed. Disallowance is a power that the Dominion government is exceedingly loath to exercise. Its exercise is antagonistic to the principle of home rule on which the government of the Dominion itself is based; and moreover the government is as responsible to parliament at Ottawa for the disallowance of an act of a provincial legislature as it is for any other executive proceeding.

**Indirect check of colonial office**

It is only through this power of disallowance that the imperial government can influence or check legislation by a province that may impair or threaten an imperial interest outside the Dominion.

**Intervention from Whitehall**

Intervention in such cases comes in the form of a dispatch to the governor-general from the secretary of state for the colonies. If the objection so communicated from Whitehall to Ottawa is held to be good by the minister of justice, he

[1] "So far as necessarily and properly incidental to the powers of legislation conferred upon them by the British North America act." — Lefroy, "Canada's Federal System," footnote, 37.

recommends the disallowance of the provincial act to the cabinet, and disallowance follows.

Instance of intervention by colonial office

As recently before the war as 1911 an act relating to accountants in Ontario — an act making accountancy, like medicine, a closed profession, closed against accountants from other provinces, and also from the United Kingdom — was disallowed on colonial office intervention, an intervention in the interests of members of the English Institute of Chartered Accountants.[1]

There is still in existence power by which the imperial government can disallow an act of the Dominion parliament. But only indirectly can it bring about the disallowance of an act of a provincial legislature.

Restriction on powers of legislature

There is one other restriction on the powers of a provincial legislature which will come at once to mind when the chapters on Confederation and the British North America act are recalled. No province may, without liability of coming into serious conflict with the government at Ottawa, legislate prejudicially affecting any right or privilege with respect to denominational schools which any class of persons — Protestants or Roman Catholics — had by law at the time of the union of 1867.

Separate schools

The rights of minorities in respect to separate schools — parish schools, as they would be called in the United States — are strictly safeguarded by the British North America act. In practice

[1] Cf. Lefroy, "Canada's Federal System," 33.

four of the provinces — British Columbia, New Brunswick, Nova Scotia, and Prince Edward Island — are not affected by this section of the organic law of the Dominion. There were no parish schools, within the interpretation of section 93 of the British North America act, in British Columbia or in any of the Maritime Provinces, at the times when these four provinces entered Confederation.

## I. *The Judicial System*

**Appointment of judges**

Courthouses are built and maintained at the expense of the provinces. Judges, however, are appointed by the government at Ottawa. On reaching the age of seventy a judge may retire on pension. Appointees to the bench must be of the bar of the province in which they are to serve.

**Courts of appeal**

In each province there is a supreme court or a court of appeal. From this court cases can be carried to the supreme court of Canada, which holds its sessions at Ottawa. In certain cases appeals can be carried to the judicial committee of the privy council at Whitehall. The power of the supreme court at Ottawa is not comparable with that of the supreme court at Washington.

**Legislatures and the courts**

"In the United States," Mr. Justice Riddell, of the supreme court of Ontario, told students at Yale University in 1916, "the courts are supreme: in Canada, the people through their representatives. In one country a few men say to the legislative bodies, 'thus far shalt thou go

and no further.' In the other the legislating bodies say to the courts, 'thus far and thus shalt thou go, and no further or otherwise.'"

A contrast of the supreme courts of the United States and of the Dominion

"Half a dozen men in the United States," continued Riddell, "sitting up in a quiet chamber, can paralyze the activity of a senate and house, may say that a measure imperatively called for in the public interest cannot be validly enacted, and the legislators, the people, are helpless. That is called republicanism, democratic government; and there is searching of soul and shaking of heads, when anyone suggests that the people be asked if that little coterie have correctly interpreted the popular will formerly and formally expressed in a state constitution. In Canada should the court fail to apprehend the real intention of an enactment, any government which can command the support of the people can at once correct the error." [1]

Occasionally men have been appointed to the bench in Canada whose distinction had been achieved, not at the bar, but by long and continuous service in Dominion politics. But there is less of politics, and political maneuvers, in connection with the courts than in any other department of state service in the Dominion.

Judiciary in public esteem

The judiciary stands high in public estimation — as high as the judiciary of the United Kingdom; and if there is one department of state in Canada that is imbued and permeated with the

[1] Riddell, 145–146.

spirit that actuates the people of England and Scotland in the working of their political institutions—local as well as national—it is that which is charged with the administration of justice.

## II. *Character of Municipal and Provincial Governments*

**Municipal code**

Each of the provinces has its own municipal code for the organization and administration of municipal affairs in counties, villages, towns, and cities. Each legislature enacts its own code; but the codes of the several provinces are fairly uniform.

**Variations from British municipal system**

In municipal organization and economy the provinces have not followed British precedents as closely as these have been followed from the beginning of political civilization in Canada in the organization of the representative and administrative institutions of the provinces and the Dominion.

More of the municipal officers in Canada are directly elected than in Great Britain. There is also some divergence from the British system in the organization of municipal councils. Montreal has long been notorious for its poor, loose, and inefficient municipal administration.[1] It is

[1] Cf. *Queen's Quarterly*, Kingston, Vol. XXV, No. 2, 130; L. D. David, "Our Municipal Situation," *Gazette*, Montreal, October 14, 1917; "Municipal Affairs," *Gazette*, October 16, 1917; "Gave Montreal a Poor Character," *Gazette*, November 2, 1917; "The City's Government," *Gazette*, November 3;

singular in this respect among the cities of the Dominion; for elsewhere municipal administration — like the administration of justice all over the Dominion — attains the municipal standards of England and Scotland.

Political conditions in provinces

The reputation of the provinces of Ontario, Nova Scotia, and Prince Edward Island for a generation before the war stood high. The history of these three provinces in this period is free from exposures of ineptitude, disregard of public interests, and corruption. Their government was stable, and little affected by the ups and downs of parties in Dominion politics.

Their legislatures, their administrations, and the provincial officers working under the direction and supervision of these administrations, enjoyed popular confidence and esteem. People of Ontario, Nova Scotia, and Prince Edward Island had to offer no apologies for political conditions in their provinces.

Of none of the other six provinces could similar statements be made.[1] Governments in these

"Citizens' Association Discuss City Government, *Gazette*, November 3; "Municipal Honors," *Gazette*, Montreal. December 1, 1917.

[1] "There is not much evidence of administrative jobbery under Sir Lomer Gouin in Quebec. In New Brunswick there have been many deplorable incidents, but unfortunately there has always been a good deal of political looseness in that province. Gross corruption has been exposed in Manitoba and Saskatchewan. There is much suspicion surrounding methods of administration in Alberta. The government

**Exposure of corruption**

provinces were not always pointed to with pride. Exposures — some of them forthcoming at trials in the criminal courts — of corruption in connection with contracts for public buildings, railway subsidies, government guarantees of bonds of railway undertakings, grants of public lands to promoters of railways, or scandals in the legislatures, or scandals in connection with campaign funds or the liquor trade were, in the fifteen or twenty years before the war, common to all of them.

**Scandals in Manitoba and British Columbia**

Peculiarly gross scandals were revealed in Manitoba in 1916; in British Columbia in 1917; and in New Brunswick in 1916, and again in 1917. In Manitoba it was corruption in the awarding of contracts for a new legislative building.[1] In British Columbia it was graft in abundance in connection with subsidies to a railway company — some of which accrued to a campaign fund of the Conservative party — that was laid bare.

**Replenishing campaign funds**

It was the same in New Brunswick, where it was revealed in 1917 that in 1912 the campaign fund of the local Conservative party was gener-

of British Columbia is under attack, and wholesale personation has been exposed in Vancouver. Thus conditions in the west may warrant the deliverance of the Methodist Laymen's Association. But the statements are not justified by conditions in Ontario." — *News*, Toronto, June 18, 1916.

[1] Cf. "The Manitoba Trial," *Gazette*, Montreal, September 6, 1916.

ously replenished by a contractor then engaged in building a railway, the second mortgage bonds of which had been guaranteed by the provincial government at Fredericton.

At this revelation in New Brunswick, where there had been a campaign-fund exposure in 1916,[1] the *Gazette*, of Montreal, long the leading Conservative newspaper of the Dominion, editorially recalled the similar scandal revealed in British Columbia, in May, 1917. "Now," it continued,[2] "come charges of a similar nature, with New Brunswick as the center. East or west, it is all the same." [3]

[1] Cf. "How Parties Are Recruited," *Tribune*, Winnipeg, June 7, 1916.

[2] August 17, 1917.

[3] Revelations of political conditions in several of the provinces in 1916–1917 were described in the undermentioned editorial articles:

"What Is a Party For?" *Tribune*, Winnipeg, April 20, 1916.

"Under Thick Clouds," *Tribune*, Winnipeg, June 24, 1916.

"Game's Up in New Brunswick," *Citizen*, Ottawa, May 19, 1916.

"A Trial of Import," *Gazette*, Montreal, June 16, 1916.

"The Manitoba Trial," *Gazette*, Montreal, September 6, 1916.

"A Western Scandal," *Gazette*, Montreal, May 14, 1917.

"A Bit Too Thick," *Beacon*, Stratford, Ontario, reprinted, *Globe*, Toronto, August 4, 1917.

"Campaign Contributions," *Globe*, Toronto, August 18, 1917.

"The Flemming Incident," and also "Sir Hibbert Tupper as a Critic," *Tribune*, Winnipeg, August 21, 1917.

## III. *Political Civilization in New and in Old World Countries*

**Where responsibility for anti-social politics lies**

These failures of leaders of political parties who were in control at several of the provincial capitals in the twenty years before the war to maintain high standards in public life — like obvious evils that have developed in fifty years' working of the representative and administrative institutions of the Dominion — are, it must be emphasized, not inherent in the democratic franchises on which the house of commons at Ottawa and the provincial legislatures are elected. Nor are they inherent in the system of responsible government — a system which, with the constitutional machinery of which the cabinet is the center, and with the wide powers conferred on the governments of the Dominion and of the provinces by the constitution of 1867, can be made to afford the Canadian people a larger political freedom than is enjoyed under the constitutional system of any other country.

**Democracy in a new and developing country**

Fifty years in the life of a nation is a very brief period; and conditions in Canada from Confederation to 1917 are not likely to continue indefinitely. In this period, and in particular from 1880 to 1914, Canada was essentially a new and developing country. In new and developing countries public spirit is seldom continuously operative at its full strength. It is usually not aggressive in asserting itself.

Lack of traditions of service to the state

There are no long traditions of service to the state. Social distinction does not go in the fullest measure to men who are serving the state, except, perhaps, in the highest offices. Opportunities for making money — for piling up wealth — are much more numerous than in an old world country; and men who are making money by exploiting the resources and people of a new country — men who are wholly engrossed in making money — are disposed to be indifferent as to the forces that are molding the political civilization in which they live. Especially is this so if the politicians are complaisant and accommodating when men who are concerned only in the "politics of business" — men who are always amply represented at the political capitals of new world countries — are seeking tariff and bounty concessions, and other valuable concessions and privileges which it is in the power of government to bestow.

"Politics of business"

Standards and ideals slow in establishing themselves

The development of political standards and ideals, and the establishment of rules and codes of political life and conduct, are apt to be postponed to a more convenient season, until individual and national material success shall have been abundantly achieved. Obviously in a new country democracy as regards the electoral franchise and the working of representative institutions, such as parliament and the cabinet, has not the fair field that since 1867, and particularly since 1884–1885, has been the good fortune of democracy in England and Scotland.

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